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ABSTRACT

In this study, focus is upon the question of the standard for educational expenditure rather than on the alternative taxing methods for securing school district funding equalization. Chapter I begins by examining the major issues vital to urban education which the "Serrano" principle leaves unresolved. Then in Chapter II, particular elements of the greater education costs experienced by urban school systems are scrutinized. The purchasing power of a dollar in an average district may buy only fifty cents worth of educational resources in an inner-city school system. In Chapter III, the critical urban problem of underprivileged pupil populations requiring special and expensive compensatory education services is looked into. It is the authors' view that the responsibility which the Congress has assumed for the amelioration of that special problem must be greatly expanded and improved in coming years as the states undertake more general equilization of funding among their school districts. Finally, in Chapter IV, the constitutional argument for an "equal educational offering" standard in public education finance is set forth. While considerations of common sense and educational fairness are sufficient, in the authors' view, to commend that standard in any event to state legislatures all apart from the constitutional requirement, the authors also believe that in the last analysis courts can enforce that standard directly under the Constitution where state legislatures have failed to respond to rationality in public education funding. (Author/JM)

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Equity For Cities In School Finance Reform

A Case for an "Equal Educational Offering" Standard in Public Education

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Contents

PAGE

PREFACE

INTRODUCTION 1

References 5

I. MAJOR ISSUES UNRESOLVED BY THE *Serrano* PRINCIPLE *by John Silard* 6

References 14

II. THE LARGE-CITY SCHOOL SYSTEM: IT COSTS MORE TO DO THE SAME *by Norman Drachler* 15

References 42

III. SPECIAL EDUCATIONAL NEEDS OF DEPRIVED CHILDREN *by Arthur J. Levin* 45

References 62

IV. THE CASE FOR A CONSTITUTIONALLY REQUIRED "EQUAL EDUCATIONAL OFFERING" STANDARD *by John Silard* 64

References 84

CONCLUSION 86

SELECTED BIBLIOGRAPHY 88

Preface

THE POTOMAC INSTITUTE, an independent nonprofit organization concerned with expanding opportunities for racial and economically deprived minorities, has had an active interest in school funding inequities dating back at least to November 1968, when, with the assistance of the Taconic Foundation, it sponsored a conference of litigating lawyers, legal experts, and educators to consider the educational and constitutional implications involved in prospective litigation. As an outcome of this conference, the Institute undertook a clearinghouse function for the coordination and exchange of information on developing legal and educational concepts as they related to pending cases. For the past two years, this clearinghouse effort had been conducted as a joint project with the Lawyers' Committee for Civil Rights Under Law, assisted by a grant from the New World Foundation.

Introduction

IN ITS HISTORIC 1954 *Brown* decision, the U. S. Supreme Court applied a concept of equality in public education to strike down racial segregation in the schools.* Once the right to equality in public education had achieved that constitutional recognition in the context of racial segregation, it became inevitable that ultimately the principle would find application beyond the area of racism. It is now being applied in the area of intrastate school district funding inequities, a field illuminated by a considerable literature during the 1960s.[1] The 1971 decision of the California Supreme Court in *Serrano*,[2] since followed by similar rulings in seven other states, marked the beginning of a broad judicial and legislative re-examination of our school funding systems. Notwithstanding the setback in the Supreme Court's recent *Rodriguez* ruling issued on March 21, 1973, we are likely soon to achieve major revisions in our school funding systems. Such revisions will be sought in the state courts and legislatures and in the Congress. And ultimately even the Supreme Court may reconsider its present posture of judicial abstention.

In 1968, the first suit challenging intrastate inequities in public school funding was filed by the Detroit School Board against the State of Michigan.[3] It was promptly followed by similar suits in Illinois and Virginia, in which the plaintiffs failed in their challenges.[4] But then the landmark California *Serrano* ruling struck down the locality-

* In so doing, the Court expressly stated (at p. 493) that the opportunity for education "where the state has undertaken to provide it, is *a right which must be made available to all on equal terms.*" (Emphasis added.) *Brown* v. *Board of Education*, 347 U.S. 483.

based system of public education funding which presently is operative in every state except Hawaii. The characteristic of that system which the California court identified as causing unconstitutional inequalities in public education is its major reliance for funds on each locality's property tax revenues. Because a public school district rich in taxable property can secure substantially more money per child for its schools—and at a lower tax rate—than the property-poor school districts, the children of the poorer districts are obtaining cheap and inadequate public schooling while children in the favored districts get a premium education.*

Since the dependence of public education on the local property tax is typical of almost every state of the Union, it is not surprising that within a few months after *Serrano* judicial decisions were issued similarly striking down state funding systems in Texas, Minnesota, New Jersey, Wyoming, Arizona, Kansas, and Michigan.[5] The Supreme Court's ruling in *Rodriguez*, declining to adopt any equalization requirement under the Federal Constitution, is not destined to be the last word. Indeed, only days later the New Jersey Supreme Court issued an equalization mandate under the state constitution's public education clause (*Robinson* v. *Cahill*, __ N.J. __). Moreover, apart from the concerns about educational inequality, pressure for changing our school funding system also is mounting due to a taxpayer rebellion against the constantly increasing property tax rates required to fund education and other community services.

It is a fair estimate of the litigation in progress and the political forces now at work that the 1970s will see major reforms throughout the Nation in our state systems of public education funding. Probably the present great dependence on local property taxes will be abated, and the Federal Government will likely assume an increasing funding role in elementary and secondary education. Many new and difficult issues will arise in the era of funding reform now upon us, but this study is not addressed to the entire spectrum of those issues. Rather, we focus here on the urban impact of the education equalization effort, for the unique realities of urban life and schooling require special perceptions and understanding.

Contrary to the general assumption at the beginning of the equaliza-

* We recognize the current academic challenge that a positive correlation has not been proved between expenditures for education and educational achievement. We are firmly of the view that such a relationship exists, and that funds effectively utilized in the education of students receptive to learning do directly advance their educational achievement.

tion litigation that inner cities naturally would benefit, there are now strong doubts on that score and even suggestions that inner cities may be worse off after equalization.[6] For instance, if a simplistic remedial approach is taken to the *Serrano* principle and all public education money throughout the state is distributed on an equal-dollars-per-child basis, *few* major urban education systems in the Nation would receive more money for their schools, and some actually would get *less*.[7] Moreover, because of other municipal services costs, most major cities are below the median in their states in the property tax rates they apply to education. Thus, if statewide school tax equalization also results from the current constitutional test cases, it may well *increase* property tax rates in major urban localities already paying the highest aggregate taxes in their states because of their municipal services overburdens.[8]

We believe that such unfortunate consequences for inner cities are possible but they are by no means *required* by the Federal Constitution or by the *Serrano* principle. That principle of "fiscal neutrality," which may primarily offer relief only to rural school districts with their very limited assessable property values, must be viewed as but the first constitutional word on the subject, not the last. Ultimately, *it is our view that the Federal Constitution will be construed to compel a statewide school funds distribution formula that takes account of the special fiscal and educational problems of some school districts, and especially the cost-burdened urban districts.*

Accordingly, we here recommend for legislative and judicial consideration a standard of school funds distribution within the state that seeks to achieve *equal educational offering* in each school district. We demonstrate that the "equal protection" clause of the Fourteenth Amendment requires states to use a school funds distribution formula which directly relates money expenditures to educational costs and resources, and that such an equal educational offering standard is amenable to objective definition and measurement. Only an equal educational offering standard would begin to do justice to cost-burdened inner-city school districts.

In this study we focus upon the question of a standard for educational expenditure rather than on the alternative taxing methods for securing school district funding equalization. Many difficult questions of public policy are involved on the taxing side of the problem, including issues concerning the merits of the property tax and the alleged value of maintaining local taxation as an element of public education funding. Here we only register our view that there are

basically two options for achieving district funding equalization. Under the first option, the local property tax system is retained but the state foundation formula is vastly enlarged and improved so as to eliminate local wealth differential effects in funds available for education in school districts. Under the second option, the state assumes the full funding function in public education—either by statewide taxes or in combination with local taxes gathered into a state fund and distributed without respect to the origin of their collection. The "full state funding" approach is our distinct preference, since it permits rational and egalitarian distribution of funds for education, unhampered by the state task of equalizing local wealth imbalances.

In the succeeding analysis, Chapter I begins by examining the major issues vital to urban education which the *Serrano* principle leaves unresolved. Then, in Chapter II, we scrutinize in detail particular elements of the greater education costs experienced by urban school systems. There we emphasize that such major school expenditure items as teacher pay, other personnel wages, land and building costs, maintenance and security expenses, transportation, and supporting services programs are more costly in urban school districts, which means that the purchasing power of a dollar in an average district may buy only fifty cents worth of educational resources in an inner-city school system. In Chapter III, we inquire into the critical urban problem of underprivileged pupil populations requiring special and expensive compensatory education services. It is our view that the responsibility which the Congress has assumed for the amelioration of that special problem must be greatly expanded and improved in coming years as the states undertake more general equalization of funding among their school districts. Finally, in Chapter IV, we set forth the constitutional argument for an "equal educational offering" standard in public education finance. While considerations of common sense and educational fairness are sufficient, in our view, to commend that standard in any event to state legislatures all apart from the constitutional requirement, we also believe that in the last analysis courts can enforce that standard directly under the Constitution where state legislatures have failed to respond to rationality in public education funding.

References

1. See Selected Bibliography appended.
2. *Serrano* v. *Priest*, 5 Cal. 3d 584, 487 P. 2d 1241 (1971).
3. *Board of Education* v. *Michigan*, Civ. A. 103342, Cir. Ct. Wayne County.
4. *McInnis* v. *Shapiro*, 329 F. Supp. 327 (N.D. Ill. 1968), aff'd, 394 U.S. 322 (1969); *Burruss* v. *Wilkerson*, 310 F. Supp. 572 (W.D. Va. 1969), aff'd, 397 U.S. 44 (1970).
5. Besides *Serrano*, the decided cases include: *Rodriguez* v. *San Antonio Independent School District*, 337 F. Supp. 280 (W.D. Texas 1971), reversed, 41 *Law Week* 4407; *Van Dusartz* v. *Hatfield*, 334 F. Supp. 870 (D. Minn. 1971); *Robinson* v. *Cahill*, 118 N. J. Super. 223, 287 A. 2d 187 (1972); *Sweetwater County Planning Committee* v. *Hinkle*, 493 P. 2d 1050 (Wyo. 1972); *Hollins* v. *Shofstall*, No. C-253652 (Super. Ct. Ariz. June 1, 1972); *Caldwell* v. *Kansas*, No. 50616 (D. Kan. Aug. 30, 1972); and *Milliken* v. *Green* (Mich. Sup. Ct. Dec. 29, 1972).
6. See, *e.g.*, Phyllis Myers, "Second Thoughts on the *Serrano* Case," *City*, Winter 1971.
7. See J. S. Berke and J. J. Callahan, "*Serrano* v. *Priest*: Milestone or Millstone for School Finance," 21 *Journal of Public Law* (1972), at pp. 52-60.
8. *Ibid.*

I. Major Issues Unresolved By The *Serrano* Principle

*By John Silard**

THE CHIEF CATALYST for intrastate equalization of public school funding is the spate of constitutional test cases following the lead of the *Serrano* ruling by the California Supreme Court. Our analysis, therefore, must begin by reviewing both the extent and the limitations of the *Serrano* principle, and the range of taxing and spending issues which it encompasses.

In California, as in many other states, more than half of the total school revenue comes from local taxes levied upon assessable property within each school district and retained by each district for its school budget. The central fact upon which the *Serrano* decision is based is that the total assessable property *varies greatly from one school district to another*. Because of the uneven and unapportioned concentrations of wealth and poverty among districts in a state, some school districts are 10, 50, or even 100 times richer than others in assessable property per school child. Naturally, the localities rich in assessable property are able at *lower* tax rates to produce *greater* school revenues per child than are the poorer localities. Of course, the ultimate per-child school revenues and expenditures do not vary as much as 50 to 1

* John Silard is a practicing Washington, D. C., attorney and constitutional law expert who has participated in briefs before the U. S. Supreme Court in school funding equalization cases.

or 100 to 1 between the richest and poorest districts because there is an equalizing effect of school revenues that come to localities from the state. The "foundation" programs of state aid, which may make up a half or even more of the total public school expenditure in particular states (Table 1), advantage the poorer districts in special need of financial help. But even after that equalizing state money is included in the local school budgets, major disparities in per-child annual expenditures remain between rich and poor localities. In a substantial number of states, the range between high and low expenditures per child exceeds a factor of 3 to 1 or 4 to 1; in as many as nine states it exceeds a factor of 5 to 1. The two most inequitable states are Texas (high, $5,334; low, $264) and Wyoming (high, $14,554; low, $618), where the expenditures per-child disproportions exceed 20 to 1. Significantly, the average high-low disproportion is almost 6 to 1 in our eight largest states,[8] where about half the Nation's public school population resides.

Reflecting these inequalities are the facts set forth in the California Supreme Court's *Serrano* decision. In California, in the richest district elementary school children were receiving education at an annual per-child expenditure level of $2,500, while in the poorest district these children were receiving annually a $400 education—a disproportion of more than 6 to 1. Frequently, in the high expenditure districts property owners are paying *lower* school tax rates than the taxpayers in poorer districts yet realizing greater school revenues. The poorer districts are able to achieve only minimum school revenues even at higher rates due to their curtailed taxable property base.

On these facts, the California Supreme Court found that the present funding system's heavy reliance on the local property tax yields high expenditures and premium education to children residing in wealthier communities but lower expenditure levels and inferior education to children living in the poorer communities. In that respect, the court accepted the plaintiffs' contention that more children of poor families live in tax-poor school districts while more children of the affluent live in tax-rich districts, so that under the present system more children of affluence are given premium education while more children of the poor get cheap and inferior schooling.* The California court thus

* Correlation of family wealth with school district wealth is established by a variety of recent studies. See, for instance, affidavit of Prof. Berke filed in the *Rodriguez* case and adopted by the opinion therein. See also J. S. Berke and J. J. Callahan, "*Serrano* v. *Priest*: Milestone or Millstone for School Finance," 21 *Journal of Public Law* (1972), Table 12 at p. 49.

TABLE I. ESTIMATED SCHOOL REVENUE RECEIPTS, 1971-72

Region and State	Percent of Revenue Receipts by Source		
	Local	State	Federal
50 States and D. C.	52.0	40.9	7.1
New England	71.8	23.5	4.6
Connecticut	73.8	23.1	3.1
Maine	60.6	32.1	7.3
*Massachusetts	73.6	21.7	4.7
New Hampshire	89.7	5.3	5.0
Rhode Island	55.0	37.2	7.8
Vermont	60.9	33.0	6.1
Mideast	51.5	43.0	5.4
Delaware	23.5	69.4	7.1
Maryland	49.7	43.3	7.1
New Jersey	70.5	25.1	4.3
*New York	47.2	47.4	5.4
Pennsylvania	46.4	48.7	4.9
Dist. of Columbia	85.9	.....	14.1
Southeast	34.1	52.6	13.3
Alabama	19.7	62.0	18.3
Arkansas	36.6	46.1	17.3
Florida	36.0	54.3	9.7
Georgia	36.5	52.7	10.8
Kentucky	30.0	53.5	16.5
Louisiana	30.5	57.0	12.5
Mississippi	24.2	49.8	26.0
North Carolina	19.6	68.7	11.7
South Carolina	26.1	57.4	16.5
Tennessee	41.3	45.4	13.3
Virginia	55.1	34.2	10.6
West Virginia	37.7	49.9	12.4
Great Lakes	59.1	36.1	4.8
Illinois	58.8	36.3	4.9
Indiana	61.8	32.8	5.4
Michigan	51.7	44.5	3.8
Ohio	63.3	30.5	6.2
Wisconsin	65.3	31.6	3.1
Plains	59.0	35.6	5.5
Iowa	73.5	24.0	2.5
Kansas	63.3	29.9	6.8
Minnesota	41.1	54.5	4.5
Missouri	57.2	35.9	6.8
Nebraska	76.3	17.3	6.4
North Dakota	61.3	28.8	10.0
South Dakota	74.5	15.5	10.0
Southwest	42.9	47.6	9.5
Arizona	48.6	43.0	8.4
New Mexico	19.2	62.3	18.5
Oklahoma	47.7	40.7	11.6
Texas	43.4	48.1	8.5
Rocky Mountains	56.9	34.3	8.8
Colorado	63.2	28.3	8.5
Idaho	48.0	39.8	12.2
Montana	67.7	23.9	8.5
Utah	38.9	53.2	7.9
Wyoming	61.6	30.8	7.6
Far West	57.9	36.0	6.2
*California	59.1	34.8	6.1
Nevada	52.1	42.0	5.9
Oregon	75.6	19.9	4.5
Washington	41.3	51.0	7.7
Alaska	11.8	70.8	17.4
*Hawaii	2.9	88.7	8.4

*Estimates by NEA Research Division.
Source: NEA Estimates of School Statistics, 1971-72.

concluded that the Constitution is violated when the cost and quality of public education given to children in the state are made to depend on the wealth or poverty of the particular school district wherein they reside. In addition to violating the "equal protection" clause of the Fourteenth Amendment to the Federal Constitution, the court found the present funding system also in violation of the California constitution, and so the California result is left unchanged by the U. S. Supreme Court's 1973 *Rodriguez* ruling.

It is vital to note that the "fiscal neutrality" theory of Serrano *and the subsequent similar rulings is quite limited.* All that these courts have thus far found unlawful is the fact that, by virtue of the heavy reliance for school funds on the local property tax among districts with greatly differing assessable property wealth, there are substantially different levels of per-child education expenditures among districts. While the rulings may open the door to major reforms in public education funding, they do not yet define what new school funding system the Constitution permits or requires. Recognizing the difficult issues presented in choosing among several remedial alternatives, the *Serrano* ruling deliberately has declined to state what methods of public school funding and distribution would comply with constitutional requirements. Only after legislatures undertake new approaches and these are presented concretely for judicial review are remedial answers likely to be given by the courts.

Meanwhile, two vital issues that the *Serrano* decision leaves open and unresolved are the following:

(1) Does the Constitution (federal or state) require both school tax burden equalization and school expenditure equalization, or only one of the two, and if so, which one?

(2) If school expenditure equalization is constitutionally required, what is funding equality—equal dollars, equal educational offering, or equal educational achievement?

We now turn to an examination of these two questions.

1. Tax Equalization and/or Expenditure Equalization?

Probably the most fundamental question left unresolved by the *Serrano* and similar rulings is whether they require both equalized school tax burdens and equalized school expenditures, or call only for equalization on one side or the other of the collection-expenditure equation. Some of the proponents of the *Serrano* principle view it chiefly as a tax equalization rule. In their view, a remedy which still

would permit great differences among districts in their school expenditures would meet constitutional requirements.

One remedy is the "power equalization" concept, whereby the school expenditure differences would reflect only the fact that the voters of one district have imposed a larger or smaller *rate of school tax* on themselves than another district, *not* the fact of differing taxable wealth among districts. Thus, where the *rate* of local property taxes for schools is the same between any two districts, under "power equalization" the actual revenue yield per child would be the same in both districts. The district with the above-average property base would surrender to the state that proportion of the yield from its school tax assessment which represents its more than average property valuation. Conversely, the district with below-average total property wealth per school child would receive from the state that amount which would bring its available school funds up to the state average. By this means, it is only the variation in school tax rates between school districts, not the variation in their assessable property wealth, that could effect differences in expenditures per pupil among school districts. Retention of the local option in each district to choose its particular tax rate or "effort" for education is the feature of the "power equalization" concept which its proponents urge as its chief value.

Because "power equalization" is addressed only to the taxing side of the collection-expenditure equation and still would permit spending inequalities, those who value *Serrano* most for its potential *educational* benefits doubt the wisdom and even the constitutionality of the "power equalization" approach. In their view, shared by the present authors, the state should afford equal treatment to children in the public school system in every district of the state. The "power equalization" approach may be better than the present system in that it removes the wealth discrimination factor against poor districts, but to the extent that it still leaves room for major educational differences based upon the local voters' predilections—beyond the control of its school children—that approach fails to achieve the desired goal.

Our objection is not merely theoretical. In inner cities the voters' option to determine tax rates for education has all too often meant deprivation for school children. Large-city tax rates are already at a premium, due chiefly to the cost of services other than education, so that under "power equalization" there is not a true parity of taxing ability for education in the cities. Moreover, city voters with children past public school age, or with children attending private or parochial schools, or for other reasons unwilling to support adequate school tax

rates, have time and again defeated at the ballot box the opportunity for fair and equal public education. Accordingly, while the "power equalizing" approach would be an improvement over the present system, it seems an imperfect solution and particularly unpromising for our major cities.

Indeed, if the *Serrano* principle does not require equalization in both taxing *and* expenditures, *as a matter of constitutional construction a better case could be made for equalization only of the latter.* Equal treatment of citizens in public education touches basic constitutional rights and fundamental interests similar to those which courts have enforced in other areas of public benefits and rights. In contrast, equalization of taxes is a concept largely unknown in our constitutional doctrine, and any efforts by courts to achieve equality in taxation seems beyond serious possibility. The whole intranational network of state, local, and federal taxation, with its vastly varying subjects of levy and differing regressivity-progressivity factors, makes tax equality a legal quicksand. It is, therefore, a fair construction that the prime feature of our present school funding system which renders it legally suspect is the inequality that it perpetuates in *school expenditures.*

We may, therefore, turn to the question untouched so far by the *Serrano* and similar rulings: what constitutes educational expenditure equality?

2. Equality in Educational Expenditures—Measured in Dollars, Offering, or Achievement?

At first glance, one is tempted to suggest by analogy to the "one man, one vote" constitutional principle that in education the rule of equality should be "one child, one dollar." Such an approach would require a system of public education wherein the same amount of money is spent on each school child in every district of the state. If we lacked the capacity to measure educational equality in any better terms than dollar equivalence, one could argue in favor of that constitutional standard as a kind of rough justice, better than the current funding inequities among school districts arising from differences in local assessable wealth and local citizen commitment to public education. But we surely do have better approximations of educational equality than mere dollar equivalence. Since in the schools it is *education* rather than *dollars* which is given the children, it clearly is logical to seek equalization of education itself by dollar distribution standards which achieve it, not to equalize the dollars spent per child and pretend that equal education will result.

The search, therefore, must be for the funding elements that should be weighed and quantified so as to provide an expenditure formula which seeks equality of education. The key factor requiring consideration in such a school equalization formula is the *cost differential in providing equal educational offering among the state's school districts.*

The standard of equality which seems minimally required is one that takes account of the fact that it costs *more* to offer the *same* education to children in one district than in another. Even under today's imperfect state supplement system, some of these differentials already are recognized. For instance, weighting factors in state formulas include the number of children attending the schools, the number in the more expensive secondary grades, and the operation of more expensive programs such as vocational education. What our suggested standard would seek to achieve, as a matter both of common sense and of constitutional right, is *equalization of educational offering in every district of the state*. To achieve such equalization it is, of course, necessary to compare the major educational expenditure elements in the school system on a local district basis. Such comparison would show greatly varying costs from district to district in teacher pay rates, the wage scale for other personnel, land and building costs, maintenance and security expenses, transportation, and other major school expenditures. Inner cities would be shown to be seriously disadvantaged under the present system of education funding because of their increased costs in almost every one of these major school expenditure areas.

Beyond dollar parity and even school offering or "input" equalization, a third possible standard is pupil achievement or "output" equalization. Such a standard was strongly supported by the Guthrie study in Michigan.[2] It proposed that student achievement scores should be the key to school expenditures; schools and districts with low-achieving pupils would be given additional funds necessary to provide compensatory education with the goal of upgrading their achievement to state average levels. While such a standard is commendable in its intent, it is doubtful whether the courts are prepared to require it. Particularly is this so at a time when there is great and unresolved academic dispute about the causes and remedies for low school achievement. It is a plausible assumption, therefore, that achievement equalization presently is not a viable constitutional standard for public school funding, and that the central struggle now is between the dollar parity and offering equalization standards.

The outcome of that struggle, as we next demonstrate and empha-

size, is critical for our urban schools, in which the opportunity for an equivalent public education cannot survive under a dollar equalization standard. Distributing public education funds throughout the state on an equal-dollars-per-pupil basis would not materially affect the disadvantages now imposed on inner-city districts. Most of them are already *over the median* in per-pupil expenditures in their states, yet they cannot provide even an average education because of their burdensome urban education costs. In our view, we should not permit an approach to school funding equalization so narrow in its disbursement formula as to do substantial injustice and inequity to children in the inner cities. There is neither logic nor fairness to an equal-dollars-per-pupil standard which would disregard the greater school cost burdens of inner-city districts. We turn now to an examination of the range and depth of those school cost burdens.

References

1. In California the variation is 4.2 to 1 ($2,414 high to $569 low); in Illinois it is 5.9 to 1 ($2,295 to $391); in Michigan it is 2.8 to 1 ($1,364 to $491); in New Jersey it is 3.7 to 1 ($1,485 to $400); in New York it is 2.8 to 1 ($1,889 to $669); in Ohio it is 4 to 1 ($1,685 to $413); in Pennsylvania it is 2.9 to 1 ($1,401 to $484); and in Texas it is 20.2 to 1 ($5,334 to $264).
2. Guthrie, Kleindorfer, Levin, and Stout, *Schools and Inequality*. Cambridge: MIT Press, 1971.

II. The Large-City School System: It Costs More To Do The Same

*By Norman Drachler**

EFFORTS DURING the past decade to improve education in large cities have obscured the simple fact that *more* dollars are required in the large city simply to provide educational services and resources *equal* to other communities. To the author, a former superintendent of a large-city school system, this disparity had been a daily concern.

Recent studies and articles which are beginning to document these additional urban costs are important contributions toward understanding some of the disparities by pointing to the higher expenditures for teachers' salaries, land and building costs, etc.[1] These studies are significant because they report some costs that can be readily compared among school districts. There are, however, expenses encountered by the large city that are difficult to quantify and to compare, although every large-city teacher, principal, and superintendent knows they exist. These are costs that are inherent in bigness and poverty.

Some of the unique urban conditions which increase school costs in large-city systems are briefly described in the following sections:

* Norman Drachler, Director of the Institute for Educational Leadership, George Washington University, Washington, D. C., was Superintendent of Schools, Detroit, Michigan, from July 1966 through July 1971.

Building Schools. A number of studies have pointed to the very high cost of land in large cities.[2] How many realize, however, the community tensions, delays, problems, and costs that accompany the decision to purchase a given school site? First, staff and board suffer the anguish of deciding which community should be provided with a new building when there are so many overcrowded, obsolescent, or inadequate schools in the city. A priority finally is determined and the housing staff begins the task of locating a site that will serve the area, be safe for children coming to and from school, and be within the dollar limit allocated for that building.

Since there is very little suitable vacant land left in the city, a site with property on it must be purchased, generally homes which will have to be demolished or moved. Due to budgetary reasons, land with less costly houses generally is chosen. This decision is accompanied by numerous problems. Some people, particularly those who are tenants, object to being displaced; others complain that their homes will depreciate with a school nearby; and still others are worried whether their children will be safe walking through a poorer neighborhood. Everyone wants a school in the neighborhood—but located at least two blocks away from his home.

Meetings are held, staff is busy preparing data for the hearings, charges and countercharges fly back and forth—and, generally, the board reaffirms its earlier decision on the site and proceeds with the task of demolition and construction. During this process, many additional concerns arise which involve additional costs. Sufficient time must be given the tenants to relocate, and the board becomes a landlord—it collects rents, pays taxes, assigns a staff person to help the tenants relocate, and the housing division becomes responsible for the vacant houses which must be boarded up to lessen the chances of harm to children and adults in the neighborhood. In some instances, security guards have to be provided until the last house is empty and the demolition company comes on the scene.

Much can be said about the higher costs in a large city pertaining to school housing: the need to build upward, with its accompanying increased construction costs, to preserve expensive land; the higher cost of labor; more stringent safety codes; concerns over the type of heating to lessen pollution in densely populated areas; and escalating bids by contractors due to vandalism during construction. All of these construction-related factors contribute to higher costs in large cities.

Vandalism and Theft. Vandalism and theft are additional financial

burdens upon a large-city school system. Vandalism and theft involved losses of nearly $1 million *per year* in Detroit between 1967 and 1970. Larger cities report higher figures. What do people steal from schools—typewriters, adding machines, audio-visual equipment, radios, television sets, etc. Not just youths are involved in thefts, but adults with trucks—a large high school having many business education classes may lose 100 to 200 typewriters during a single night. To decrease these thefts, expensive alarm systems are installed, with continuing costs for operation and maintenance. In 1970-71, Detroit spent $110,225 for "Still Alarm Service," and there were similar costs in previous years.[3]

Security. In recent years, most large-city school systems have had to assume another major expenditure in their already depleted budgets —a security force. Tensions mount where there are groups with contrasting values and differing views on resolving our social problems, compounded by poverty and fear. Thousands of youths in a large city are unemployed, and the school has become a focal point where they often release their frustrations. Parents complain about children being "frisked" on their way to and from school. Students and faculty alike fear harm from roving gangs who run through buildings breaking windows and attacking whoever gets in their way—and the Fire Department issues "tickets" or violation charges against principals who lock some of their many doors! "I keep only one or two gallons of gas in my tank," a teacher told me, "so that if my car is stolen from the school parking lot, whoever takes it cannot go very far."

So, for personal safety, security guards are now added to the school staffs in large cities. The cost for 1,200 "safety aides" in the New York City school system was reported to be $6 million for 1972-73.[4] Los Angeles reported an annual expense of $3,400,000 for security—the equivalent of 340 teachers at an annual salary of $10,000.[5]

Food Facilities. A growing cost in large cities is the need to feed students in school. The irony of the lunch situation is that children who need school food most attend older school buildings without lunchrooms. Thus, as new schools were erected in Detroit, they were built with larger kitchens to facilitate the distribution of lunches to schools without kitchens—the so-called "Lunchroom Satellite Program." Special insulated trucks had to be purchased, drivers hired, and thousands of hot lunches were distributed daily to various schools, although not nearly fulfilling the great need. Generally, lunchroom services are planned to be self-supporting. Yet, between 1967 and

1970, Detroit's expenditures exceeded revenues by $512,529 due to the growing number of children requiring free lunches.

Personnel. The cost of school personnel, particularly teachers, represents the major portion of the school operating budget. Many of our large cities expanded after each World War. School enrollments soared, and additional teachers were needed. Detroit's school enrollment grew from 119,000 in 1920 to 240,000 in 1940, and by 1966 Detroit had 298,027 pupils. The soaring enrollments between 1920 and 1940 brought many young teachers into the school system who today are at the maximum salary level. In large cities generally, a large proportion of staffs have between 15 and 35 years experience. In 1971, 41 percent of Detroit's teachers were at their maximum. Older teachers have very limited choices of transfer elsewhere at comparable salaries. So large cities with increasingly expensive staffs either must raise more school funds or increase teacher-pupil ratios. In 1968, if Detroit had aspired to have for its school children the same class size as was the average throughout the rest of Michigan, an additional *1,200* teachers would have been needed to bring about equity, at an additional cost of $12 million.

Absenteeism. Bigness seems to contribute to absenteeism of both staff and students, and results in higher expenditures for attendance and social work services as well as for substitutes for employees.* Distance of travel to and from schools, inclement weather, disturbances in school, higher percentage of older employees—all contribute to absenteeism and higher costs. A study in 1970 of absenteeism in Detroit revealed that as the age of employees increased, absenteeism increased. Employees between the ages of 60 and 70 were absent twice as often as employees of ages 20 to 30. The large city generally has a higher rate of older employees.† Detroit, as most large cities, must spend more on substitutes—and on attendance officers to investigate student absenteeism.

Noncertificated Teachers. Between 1960 and 1967, Detroit had annually between 500 and 800 substitute teachers in regular positions because certified teachers could not be found. In certain specialized

* Mark Shedd, former Superintendent of the Philadelphia public schools, reported that over 30 percent of high school students in that city's schools were absent daily. See *Hearings—Select Committee on Equal Educational Opportunity of the U.S. Senate*, 92nd Congress, 1st Session, Washington, D. C.: U.S. Gov't. Printing Office, 1971, Part 16A, p. 6608.

† The school system of Chicago reported that 21 percent of its teachers in 1969 were between the ages of 50 and 70. See *Chicago Public Schools 1970-71*, p. 63.

subjects, such as math and science, teachers not fully qualified frequently were assigned. For several years, some industrial arts classrooms were closed because the school system could not compete with private industry for qualified personnel. The shortage became so acute that the superintendent appealed to leaders in private industry to share some of their skilled employees with the school—a plan that helped only on a limited basis.

Transportation. Large cities receive very little state or federal help for school transportation within the city. Transportation is often necessary because of long distances to junior or senior high schools, moving students from overcrowded schools, and crossing arterial roads and expressways. Over 40 percent of Detroit's secondary students use public transportation to get to school. The poor cannot afford bus fare and free tickets must be provided. In 1970-71, Detroit spent $770,990 for bus tickets for indigent students. The total cost in Detroit for the transportation of students (exclusive of special programs financed by federal or state grants) was $3,544,490 for the 1970-71 school year.

Summer Programs. In a large city, summer represents a special concern for the school administrator. Since a large proportion of the city's children are poor, they have little opportunity to attend camp or travel with their parents. Thousands need recreational outlets, or remedial and makeup services due to failure in school. High schools having swimming pools should be kept open to serve the community, especially during the hot summer days. Only a small part of these costs is reimbursed to the city school system; the major portion must come from the regular budget.

During the summer of 1967, although the Detroit Board of Education obviously did not anticipate the disturbances of that July, nearly 100,000 students were enrolled in the summer program—over one-third of the total school enrollment. In the areas where looting and fires occurred, parents sent even those youngsters who were not enrolled to the school buildings as places of safety. It is of interest to note that during the days of the riot, not a single school building was damaged.

Mobility. Migration to and from the city is well documented, but not enough is known about mobility *within* a city. The ravages of urban renewal, highway construction, temporary periods of unemployment, or the quest for a better home or school in a safer neighborhood, all influence the movement of parents and children.

Every Monday, many schools in the inner city have about 15 to 25 new pupils—and about an equal number have left.* A not untypical case was a 9-year-old white Appalachian girl who had attended eight different schools during a 4-year period. She was enrolled in a predominantly southern white inner-city school with a turnover rate in 1970 of 102 percent!

The strain upon the children, the teachers, and the office staff is obvious. There is urgent need to follow up on the incoming and outgoing pupils and to aid adjustment and learning for these children. The press carried a story about the efforts of the school staff to help these youngsters adjust to their school situation, and as a result one of the TV stations sent a reporter to a high-turnover school on the closing day. The reporter greeted the children as they came out of the building and asked one what her plans were for the summer. "I don't know," she replied, "but I suppose we'll move."

There are manifold services and costs necessary to help these "migrant" children attain an equal chance for education—community agents to reach the parents, letters to be written to schools which the parents report their children had attended, additional clerical help to maintain the extra correspondence and record-keeping, attendance officers to check on the children, special services to diagnose those whose records could not be located (some come without report cards and have to be evaluated for grade placement), etc. Meanwhile, teachers begin to teach, issue new supplies, visit the homes, make recommendations for free lunches or referrals to social agencies—and then discover each Monday that some children are absent. A visit by the attendance officer often brings a notice: ". . . cannot attend due to lack of clothing . . ." or ". . . kept home to care for younger brother due to mother's illness . . ." or ". . . stayed home to watch the mailbox for the welfare check . . ." or ". . . moved, can't locate."

Throughout the year, but particularly in September when the official school enrollment is reported to the state for state school aid, the school attendance department is busy checking youngsters who enroll in Detroit's schools but whose parents reside in other states. These youngsters live with aunts, sisters, cousins. State regulations require that tuition be collected for these children, unless the relatives with whom they stay become their legal guardians. The regulation also states that quest for a better education cannot be accepted as a

* A 1956 University of Michigan *Detroit Area Study* indicated that 73 percent of Detroit's inner-city families moved a distance of less than three miles, as compared with 31 percent in the Detroit suburbs.

legitimate reason for enrollment without tuition. The Detroit Attendance Department estimated that several thousand youths were in this category yearly. Each case must be investigated, and the costs are substantial.

The Urban Educational Environment. In 1950, the Detroit school census estimated that 1 out of 10 pupils lived in a "depressed" community; in 1960 the figure was 3 out of 10, and by 1970 the count was 6 out of 10. In such communities the rates for infant mortality, premature births, and death due to tuberculosis, homicide, etc., are 3 to 4 times higher than in the more affluent communities of the area. The city school system makes valiant efforts to help the thousands who try to learn despite physical or emotional handicaps, but it lacks the professional staff to aid the many who are educationally disadvantaged as a result of inadequate prenatal or infant care, visual or hearing difficulties, or serious emotional problems.

The training that the urban teacher receives prior to accepting a teaching position simply is inadequate to diagnose such disabilities and develop the kinds of effective programs that will enable the city's disadvantaged children to have an equal chance for learning. Massive programs of inservice training are essential to influence the understanding, attitudes, and effectiveness of the city's school staff. The large-city curriculum of 1950 does not serve the needs of the children in 1970, and new methods and approaches must be sought. As the city and its population undergo change, the challenge of self-renewal for the school staff continues. New or more adequate programs and instructional materials need to be acquired or developed that contain ethnic content suitable for the background of the changing student population, and teachers and supervisors must be employed who possess special training to deal with bilingual children.* All these measures are not "extras" for large-city systems—they are the *essentials* necessary for an equal opportunity for the city youngsters to learn.

Due to their large populations and mobility, the cities' concerns are America's concern. As Americans move—the Postal Service reports that 1 of 5 families moves each year—it is clear that we cannot quarantine ignorance; it travels and settles throughout our land, and the cities' educational shortcomings affect us all. Each state, as well as the Federal Government, must make it possible for city children not merely to enter the educational race but to have the kinds of services that will give them a better chance to run the race successfully.

* *The New York Times* of September 11, 1972, reported that in New York City about 49,000 pupils of Puerto Rican background "... speak little or no English."

This overview touched upon some of the unique conditions in large-city school systems that *augment the normal costs of operation.* Since state aid generally does not allow for these additional costs, the quality of all large-city school services is diminished—and the children are the victims. Fewer classrooms, older and inadequate buildings, fewer professionals per pupils, and generally poorer resources throughout the system are the consequences.

The following sections will describe in more specific detail the greater urban costs in three essential elements of school operation: (1) School Construction and Facilities; (2) Personnel; and (3) Education for the Handicapped and Vocational or Career Education.

1. School Construction and Facilities

School construction is influenced by a variety of factors: (a) need for additional seating capacity; (b) obsolescence of buildings; (c) cost of land; (d) cost of construction as influenced by local conditions; (e) higher safety codes for schools in more densely populated areas; (f) special program needs such as facilities for students in handicapped or vocational education programs; (g) shifts of population due to urban renewal, highway construction, changing demography, etc.

Land and Construction Costs. The rising cost for school sites is generally known. The range in costs for school land between urban and rural communities, however, is not so well known. In 1964, the Research Council of the Great Cities Program for School Improvement published a survey of school site cost per acre from 1958 to 1963 in the 14 large cities.[6] The average cost per acre for these 14 cities was $68,156. The per-acre cost ranged from $197,841 in New York City to $5,692 in Houston. The average sampling of other, non-urban school districts in these states was $3,074 per acre.

Detroit costs, which were reported to be $64,909 in the above study, rose to nearly $100,000 per acre by 1967.[7]* Los Angeles, which had reported that school site land between 1958-63 had averaged $68,000 per acre, in 1972 stated that the ". . . cost per acre for recently acquired sites for new schools was $44,000, $125,000, and $195,000 per acre."[8] It must be recognized that, due to inadequate sites of existing obsolete schools, new schools in large cities often require the acquisition of additional land for playgrounds, generally containing buildings which must be demolished at additional expense.

* More recent estimates for Detroit range between $125,000 and $130,000 per acre.

Large cities, because of their age and shifting population concentrations, have many obsolescent buildings.* In 1966, *An Inventory of Facility Needs in the Detroit Public Schools* listed 30 schools built between 1874-1912 still in use in their original condition, 20 others of the same period in use but rehabilitated, and 153 buildings erected between 1913-30. In 1968, Ben E. Graves reported that in 16 of the great cities there still were in use almost 600 elementary schools and more than 50 junior and senior high schools that had been built before 1900, and almost 900 school buildings erected between 1901-20.[9] In Buffalo there was an age span of 103 years between school buildings in use.[10] Mark Shedd, testifying before the Select Committee on Equal Educational Opportunity of the U. S. Senate in 1971, stated that ". . . more than 30,000 youngsters attend school in Philadelphia in firetraps."[11] A school building in Detroit, closed only several years ago, was dedicated during the administration of President Grant.

The older schools also were built in an era when playground space was less of a necessity in terms of program and safety than it is in today's traffic-laden streets. Thus, the replacement of an obsolete building on site often requires additional playground space since the inner city lacks recreational or park areas.

The high cost of land in inner cities effectively rules out single-story buildings. Buildings of several stories cost 20 to 30 percent more to construct. Tragic fires in older buildings have brought about greater concern for safety, and new buildings must fulfill more stringent building codes to protect the children. All of these factors, plus a more expensive labor market in cities, escalate the cost of school construction.

Operation and Maintenance. The large city also requires greater expenditures per pupil for operation and maintenance of the school plant. City standards require licensed engineers for operation of heating plants. Business and government pay higher wage scales to organized employees, and schools must compete. Vandalism, which accompanies bigness, also adds to higher operation and maintenance costs.

The following table illustrates the range in per-pupil cost for

* In 1959, the Detroit Citizens Advisory Committee on School Needs estimated that $43,400,000 was necessary to replace existing obsolete buildings. Today the cost would be much higher. See *Findings and Recommendations of the Citizens Advisory Committee,* Board of Education, City of Detroit, 1959, p. 203.

operation and maintenance as related to school district size in Michigan in the 1970-71 school year:[12]

Per-Pupil Cost

	Operation	Salary Only
State Average	$82.33	$52.00
Detroit	92.75	69.24
Group C	88.78	56.59
Group E	80.41	49.43
Group K	62.99	33.36
Group N	61.35	30.01

	Maintenance	Salary Only
State Average	$25.03	$10.64
Detroit	42.62	26.50
Group C	26.46	10.50
Group E	17.96	5.99
Group K	17.02	2.78
Group N	20.52	1.89

State classification (based on school law or general population):

Detroit—289,382 students enrolled
Group C—20 school districts, enrollment range 10,000 to 19,999
Group E—14 school districts, enrollment range 4,000 to 4,999
Group K—65 school districts, enrollment range 1,500 to 1,999
Group N—129 school districts, enrollment range below 500

To appreciate fully the higher costs of operation and maintenance in large cities, one must translate the per-pupil costs into dollars. The *difference* between Detroit and Group N was $39.23 per pupil for salaries alone to operate the school buildings; thus, Detroit spent an *additional* $11,352,455 for operations salaries only, as compared to the average school district in Group N. In maintenance, the salary differential between Detroit and Group N was $24.61 per pupil, or an additional salary cost of $7,121,691.[13]

A national survey of differences in maintenance costs per pupil between the state averages and 14 large cities revealed a pattern quite consistently higher for large cities. The following table demonstrates this disparity:[14]

PER-PUPIL COST—MAINTENANCE OF PLANT, 1967-68

STATE		CITY	
1. New York	(N.A.)	New York	$27.00
2. California	$23.00	Los Angeles	30.00
3. Illinois	22.00	Chicago	21.00
4. Pennsylvania	20.00	Philadelphia	26.00
5. Michigan	20.00	Detroit	31.00
6. Massachusetts	19.00	Boston	25.00
7. Missouri	21.00	St. Louis	43.00
8. Colorado	18.00	Denver	23.00
9. Louisiana	12.00	New Orleans	29.00
10. Maryland	26.00	Baltimore	36.00
11. Minnesota	15.00	St. Paul	28.00
12. Ohio	15.00	Cleveland	24.00
13. Oregon	26.00	Portland	31.00
14. Wisconsin	22.00	Milwaukee	31.00

In the 1970-71 school year, Los Angeles spent $33.73 per pupil (average daily attendance) for maintenance and Beverly Hills spent $59.31. Yet for Los Angeles this represented 4.24 percent of current expenses, whereas for Beverly Hills it was only 3.91 percent.[15]

Shifting of School Population. Cities, as they age, are affected by obsolescence, urban renewal, highway construction, and shifting population. An area with schools under capacity one year becomes overpopulated a year later. Since minority groups, especially the black and Spanish-speaking, represent the younger families of the central city, they tend to have more children of school age. Thus, as they settle new areas, the existing school facilities usually are not adequate to house the increased school population. Parents in the ghettos of large cities scrimp and save to move, hoping for better homes and better schools for their children. Then, when they have moved, usually to changing neighborhoods which is their only choice, the formerly adequate school becomes overcrowded and their very striving for a better chance is self-defeating.* Transportable classrooms

* In Detroit, the Guest School, an elementary building, had a capacity of 1,000 in 1967, with an enrollment of 1,186, of which 506 was black. In 1970, the enrollment increased to 1,530, of which 1,430 was black. Classrooms could no longer contain the overcrowding and additional space elsewhere had to be rented, to which bus transportation had to be provided.

are required, or new construction must be started. Thus, the central city's construction costs constantly mount as its population mobility increases.

Community Facilities. School housing represents more than just providing seats for youngsters. The urban community looks upon the school building not only as an educational institution but also as a community center. The building is expected to be open 12 months of the year, 7 days a week. Not only should the school building be suitable for the latest technological educational equipment, but it also should serve as a place of recreation after school hours and a meeting place in the evening for adults.

A good school is an economic asset of the community. The sale or purchase of a home is in some measure dependent upon it, and real estate salespeople use it as a selling point. Yet the need for a new school is the concern of only one particular community in a large city. Those who have adequate schools in their neighborhoods seem to have little concern for someone else's community. Thus, school construction in a large city encounters apathy or opposition from the city as a whole: "Let them use the old building," or "We waited a long time—let them wait."

The large city, therefore, has to spread its construction money into more neighborhoods and consequently erects cheaper buildings. Cheaper construction results in higher operating and maintenance costs. So funds that should go for more teachers, textbooks, and auxiliary services are diverted to the operation of older and cheaper school buildings. And children throughout the city suffer.

2. Personnel

A recent challenge to equity for cities in school finance reform is based on the contention that higher priced urban teaching staffs represent premium rather than equal educational resources and that more money would be available for other educational purposes if less expensive teachers were employed. This argument ignores the facts of urban life over which large-city school systems have little control.

First, as has been pointed out, many cities expanded after each World War, and school enrollments soared. The many young teachers brought into the system then are today at their maximum salary level. With experience their salaries rose, and these teachers had fewer options to transfer elsewhere. Also, with no national retirement plan

for public school teachers, transfer meant loss of accumulated pensions. Thus, as long as they were performing satisfactorily, teachers tended to remain in their school district.

Secondly, teachers were required to keep up to date in their professional training, and college offerings were encouraged in order to improve their teaching potential. As the composition of the urban school population changed, a whole host of inservice training programs, summer workshops, professional seminars, and university courses became almost obligatory. Also, advancement to higher positions of responsibility in the educational hierarchy required advanced degrees as one of the criteria formulated by the board of education. Thus, a large proportion of urban teachers garnered advanced professional training and higher degrees, which entitled them to emoluments under local school regulations.

Thirdly, facing strong competition from the suburbs for teacher replacements, large-city systems had to at least approach the competitive salary range simply to maintain their schools. Another problem that confronts a city system, in addition to the competition for qualified teachers, relates to salaries paid to other city employees. When firemen and policemen, with an employment requirement of only a high school diploma, receive beginning salaries of $8,000 to $10,000, it is difficult for a board of education to offer less than $8,000 to teachers, who must have at least a college degree.

One must of course be cautious and realistic in approaching the question of teacher salaries in view of the progress made in recent years and the limitations of funds. It should be said, however, that the current issue has historic roots. Traditionally, although the United States has had great faith in its schools, it maintained throughout the history of public schooling a policy on salaries which was not commensurate with other professions in this country or with teachers in other progressive nations. Up until almost World War II, women comprised 80 to 90 percent of the teaching staffs and they were exploited at salary levels far below professional standards. There actually were two salary scales—one for women and another for men. Today's teachers, bolstered by collective bargaining, will no longer countenance either a double standard or a nonprofessional pay scale.

The 1970-71 annual survey of school expenditures by *School Management* indicated that the Nation's schools spent about 81 percent of their net current expenditures for personnel. Since salaries represent four-fifths of general school expenditures, it would be instructive to examine comparative salary costs in relation to central

cities. Of the 527 school districts in Michigan, Detroit ranked 65th in average teacher salaries—a figure which still contributed to strong competition for teachers. Comparison with the rest of the state indicates that the larger adjacent suburbs pay higher salaries, and the distant rural areas pay less. The city must compete with the nearby communities.

In 1970-71, the average salary paid to teachers in various school districts in Michigan is shown in the following table:[16]

Enrollment Classification	No. of Districts	Pupil Membership	No. of Public School Teachers	Average Salary
(A) Detroit	1	289,382	11,136	$11,475
(B) 20,000 to 49,999	12	339,662	14,528	11,930
(C) 10,000 to 19,999	20	285,483	12,340	11,825
(E) 4,500 to 4,999	14	66,211	2,672	10,767
(K) 1,500 to 1,999	65	104,432	4,361	9,721
(N) Below 500	129	17,855	835	8,387

Since salaries must be competitive, with a limited budget the large city is forced to cut down on important auxiliary services such as attendance, social and diagnostic work, health, and community services. Of the 37 school districts in Wayne County, Detroit ranked 18th, with $64.66 per pupil, in auxiliary services. Fairlane, a school district with 1,154 pupils, spent $322.20 per pupil for auxiliary services.[17]

Evidence of Detroit's financial plight is demonstrated in its general ranking among the 37 school districts in Wayne County. The following table shows that its educational services are at the median or below, and its maintenance costs are high:

	Detroit
Service	Rank[18]
Administration	36
Instruction	21
Operation	22
Maintenance	3
Fixed Charges	34
Auxiliary Services	18
Total Current Expenditures	18

Detroit's rank of 36 out of the 37 districts certainly indicates that its administrative costs are low, which is as it should be for a large city. But in maintenance Detroit ranks third highest in cost, whereas for instructional and auxiliary services, which are so urgently needed for inner-city children, it ranks 21 and 18, respectively. In fixed charges, which include primarily employee benefits such as medical and life insurance, severance and terminal pay, etc., Detroit ranks 34th—a poor competitive position for attracting new staff.

During the past two decades, surveys of school personnel have concluded that the number of professional staff members per thousand pupils is a better index for measuring the adequacy of a school staff than pupil-teacher ratios. Central administrative staff members are recorded separately. A growing number of school systems now report this relationship. In 1961, when James B. Conant published *Slums and Suburbs,* a harbinger of the current crisis facing central cities, he wrote: "In the suburban communities surrounding New York City, the average is 60 professionals per 1,000 pupils." Conant, at that time, endorsed as a minimum the figure of 50 professionals per 1,000 pupils, a recommendation of the Educational Policies Commission of the National Education Association.[19]

When, in January 1971, the Metropolitan Detroit Bureau of School Studies, Inc., released its annual report for the 112 school districts in the metropolitan Detroit six-county area,[20] the findings indicated that Detroit had 44.64 professional staff members per 1,000 pupils in 1970-71. Of the 112 districts, 75 had a higher number than Detroit (four had more than 60 professionals, 30 had 50 to 60, and 41 had over 45). Thus, the central city with its many needs had fewer professional staff members per 1,000 pupils than two-thirds of its suburban neighbors. The four school districts adjacent to Detroit with over 60 professionals per 1,000 pupils included River Rouge with 60.14, Novi with 60.25, Ann Arbor with 62.97, and Oak Park with 69.30. If Detroit would have aspired to 60 professionals per 1,000 pupils (still 9 less than Oak Park), its instructional budget for 1970-71 would have had to be increased by nearly $70 *million*—and this figure does not include capital costs necessary to house the staff or pupils.

A recent study by the Urban Institute,[21] which compared disparities within and between nine selected states, found that on the average school salaries in central cities are higher than in the suburbs and that the suburbs pay higher salaries than rural schools. A more recent study points out that "rural teachers in Michigan have starting salaries which are 23.9 percent lower than in the central cities."[22] The studies

attribute these differences to a number of factors, among which are: (1) differences in teacher organization strength and militancy; (2) cost of living differences; (3) differences in education and experience levels of teachers; and (4) supply and demand for teachers.[23]

Ms. Levin, director of the Urban Institute project, summarized its findings by reporting that the average difference in expenditure between central cities and suburbs is $110 per pupil. "Of the difference," she stated, ". . . 80 percent can be accounted for by differences in instructional personnel costs, excluding fixed charges. Assuming that 60 percent of fixed charges (probably a conservative assumption) covers instructional personnel benefits, almost the total expenditure gap between central cities and suburbs is explained by differences in both salary and benefit payment to classroom teachers, principals, and supervisors."[24]

Two of the factors listed that influence higher salary differentials were: (1) "Central city teachers have more years of experience than those in any other type of district in almost all of the states studied"; and (2) although the difference in advanced degrees between central cities and suburbs is not consistent, central cities have 60 percent more teachers with advanced degrees than rural districts. Thus, although starting salary comparisons also are erratic, they tend to be higher in central cities, especially when compared with rural areas; and "average teacher salaries for central cities in all states included in the study are 5 percent above the average of suburban districts," and 19 percent above rural areas.[25]

It has been pointed out that the central city competes for teachers primarily with the surrounding suburban communities. Some of the affluent suburban communities have high starting and maximum salaries. New York City's range in teacher salaries for 1970-71 was $8,450 to $16,000. Neighboring Nassau County had an average salary range of $9,958 to $16,517, and Westchester County's range was $10,800 to $16,900.[26] Detroit's collective bargaining contract in 1968 was based on the *average* of the highest nine surrounding districts for the Bachelor's Degree, and the highest 11 surrounding districts for the Master's Degree. Since the central city generally has more teachers at maximum salary because of seniority, its costs are high, though its *salary range* is still *smaller* than some of the adjacent suburbs. Chicago's teacher salary schedule for 1971-72 ranged from $9,072 to $16,275. The Elmwood Park Community Unit School District in Illinois had a salary range of $8,150 to $16,300. Yet the average teacher salary in Elmwood was $10,187, compared to $11,340 in Chicago.[27]

Seniority of teachers and the need for a higher minimum to attract teachers in Chicago account for the difference. Central cities throughout America face similar situations.

Translating these differences into aggregate dollars clarifies the financial plight of large cities. In Detroit, there were 9,341 regular teachers (excluding special service staff) in 1970-71. Of this number, 3,630 (41.56 percent) were at the maximum, 2,570 (27.51 percent) had the Master's Degree, 472 (5.05 percent) had the Master's Degree plus 30 additional credit hours, and 13 (0.14 per cent) had a doctorate.* The degree differential amounted to an *additional* $3,603,085 in salary cost for that one school year. Yet, when Detroit's average teacher salary was ranked with 527 school districts in Michigan, it was 65th.[28] Although Detroit's average salary was better than most school districts in the state, it still had 529 teacher vacancies in 1970-71 and one of the highest pupil-teacher ratios in the state.

Attendance Services. There are additional personnel needs in large-city school systems which exist elsewhere, but in central cities these needs multiply not merely due to size but because of unique urban characteristics. One of the most vexing central-city school problems is transciency or mobility. Children who moved between the third week of school and one week prior to the end of the school year were included in Detroit's "mobility" count. Under this definition, of the nearly 300,000 pupils enrolled during 1970-71, the mobility rate for the city's school system was 40 percent.[29] A report from Detroit's Director of Pupil Records for the month of October 1969 indicated the following:

2,966 children left the city;
2,137 children entered the city;
7,344 withdrawals were received;
12,462 entries were received;
1,378 children became dropouts;
336 children were marked "left," since they had been absent for 30 consecutive days and could not be located;
625 withdrawals were received from parochial schools.

* At the national level, the breakdown for degrees was: Metropolitan Central City—less than Bachelor's, 2.9%; Bachelor's, 68.9%; Master's, 27.9%; Doctor's, 0.3%. For Metropolitan Other—less than Bachelor's, 3.2%; Bachelor's, 70.7%; Master's, 26%; Doctor's, 0.1%. See *Statistics of Local Public School Systems, Fall 1969*. National Center for Educational Statistics, U.S. Office of Education, Washington, D. C.: U.S. Gov't. Printing Office, 1971, pp. 9 and 11.

A total of 27,248 withdrawal and entry forms were processed by the Pupil Records Department in this *one month*. The director pointed out that the difference of 5,118 pupils between withdrawals and entries was due to clerical delays. It also may reflect the fact that schools are more prompt in reporting entries than withdrawals. The above figures were not exceptional. For 1966-67, the records for Detroit indicate 5,710 transfers to Michigan public schools outside Detroit—and 80,025 withdrawals and entries within the city.

During an average year, the Detroit Attendance Department makes between 130,000 and 150,000 inquiries about students. These include about 14,000 conferences with parents and/or children, 13,100 conferences with school personnel, 10,000 conferences with other agencies, and some 1,200 conferences with social workers. A breakdown of 134,422 referrals in one year to the Attendance Department underscores some of the major problems facing children in urban areas, calling for special services:

16,615 (12.4 percent) were truant;
11,879 (8.8 percent) were kept home by parents;
3,583 were out of school due to "neglect";
30,937 were out due to illness;
5,516 were absent due to poverty;
5,934 could not be located;
9,337 referrals were made for children *in* school, but required personal contacts.

It is not surprising that Detroit spent $9.02 per pupil for attendance salaries, while the state average was $2.70. This service, which is a normal and essential central program service, added $1,828,893 to Detroit's school budget. Very small school districts in Michigan have no expenditure at all for this service. The higher attendance cost for Detroit is typical of other central cities. On a nationwide scale, a U. S. Office of Education report for the school year 1968-69 indicated that the per-pupil cost in average daily membership was $4.01 in central cities and $1.30 in other school districts.[30]

3. Education for the Handicapped and Vocational or Career Education

In discussing urban education, a distinction must be made between special compensatory programs for underachievers and standard educational programs which are part of the normal curriculum in a large city. The high school is not solely a preparatory school for the uni-

versity, but also the end of formal schooling for many. In Detroit only 40 percent of the high school graduates apply to enter college, and 60 percent turn to employment. The latter figure has increased in recent years due to the fact that proportionately many more now attend high school than 25 or 50 years ago, when it was a school for the elite. A similar change has occurred in the city regarding handicapped children. Not only has the number of handicapped children increased in urban schools, but they also are staying in school longer.

Urban school programs for students who do not go on to college and for those who are handicapped are as normal a part of the curriculum as is the college preparatory program which may dominate the suburban high school. Without these programs, motivation for remaining in school and effectiveness of learning would greatly diminish. It is not optional but *obligatory* for the urban school to include these offerings in keeping with sound educational practices as well as to meet the legal responsibilities imposed by the state.

The Urban School Clientele. A recent study by Joseph Froomkin, Inc., submitted to the President's Commission on School Finance[31] made a number of comparisons between central cities and other communities which underscored the existing differences in educational achievement, and clearly indicated that better educational services are needed in central cities if we are to bring about educational equity for urban children. The study relates the historic ties of poverty to inadequate education. It pointed out that in 1960, 37 percent of children 10 to 13 years of age whose parents had an income below $3,000 a year were below grade level for their age. On the other hand, only four percent of children from families with incomes above $7,000 were below grade level. The authors concluded that if ". . . one were to take the suburban average achievement as a standard, one would find that roughly 40 percent of the children in central cities and rural nonfarm areas achieve below the lowest quartile of suburban children in the ninth grade."[32]

Poverty in urban society is increasing rather than declining. A recent monograph by Professor Robert Lewis of Michigan State University demonstrated this alarming growth.[33] Dr. Lewis pointed out that in 1960-61 the average number of AFDC family units in Michigan was 27,500. In 1965-66 it was 39,000, and by 1970-71 the figure had risen to 101,000. For 1971-72, he estimated 129,000 family units on AFDC, of which the vast majority were in the cities.

The Froomkin study reported that in 1970, 17.24 percent of

children in school had reading problems. For central cities, the national figures revealed that 20.41 percent had reading problems. But when examining the Northeast, where large cities and minorities are concentrated, the comparable figure for nonmetropolitan areas was 13.95 percent; for suburban areas, 13.37 percent; and for central cities, 27.79 percent—about twice the number with reading problems.

The composition of the school population of large cities was described in an October 1968 report of the Conference of Large City Boards of Education, an organization representing New York State's six largest cities. These six cities, with 40 percent of the state's pupils, contained:

54 percent of the state's handicapped;
73 percent of the state's "poverty family" pupils;
83 percent of the state's pupils receiving Aid to Dependent Children;
86 percent of the state's nonwhite pupils; and
90 percent of the state's full-time vocational pupils.[34]

The report of the New York State Fleischmann Commission, issued in 1972, stated:

> "Equality of educational opportunity does not exist for the students of New York State . . . the uneven geographic distribution of failure indicates that the children in the state's largest cities bear the heaviest burden of school failure. And, on the whole, low-income and minority group students are concentrated in large cities throughout the state . . ."[35]

In his foreword, the chairman of the commission stated: "It is now clear to all of us that quality, cost, and financing are inextricably interrelated."

The findings relating to large cities in New York State exist in nearly every state of our Nation. August C. Bolino, in his book, *Manpower and the City*, wrote: "Many of the nation's most acute problems reflect the transfer of rural population, white and Negro, from the low-income farm areas of the Southeast into the large urban centers. There is now a two-generation gap between the education and skills of the new migrants and that of the older, settled, urban population."[36] A background paper prepared for the 1970-71 White House Conference on Children and Youth reaffirmed the dependency

of educational achievement of the young upon the education of their parents.[37]

Thus, besides the general school curriculum, schools in central cities must provide many additional programs required by the variety of urban student needs. The special educational needs of children deprived through poverty and/or minority group status are described in detail in Chapter III. Here we shall examine two other programs of particular challenge to large-city school systems: Education for the Handicapped and Vocational or Career Education.

Education for the Handicapped. Federal legislation defines the "handicapped" as children who, due to mental retardation, hearing difficulties, speech impairment, visual handicaps, serious emotional disturbances, crippling, or for other health reasons, require additional educational services and, often, unique facilities and equipment.[38]

It has been estimated that approximately 10 percent of school children fall into the handicapped classification, but only about 30 percent of the children requiring these additional educational programs receive this service.[39] In the central city, with higher proportions of handicapped children, the number of children requiring additional services is greater than the national average. Based on national standards, a city the size of Detroit should have approximately 30,000 children in its programs for the educationally handicapped. Yet only 8,780 were enrolled in 1970-71. Lack of facilities, equipment, and staff was the cause.

Education for the handicapped is costly. It calls for a more individualized program, specialized training, unique facilities and equipment, and, often, transportation for the students. Although some of these costs are funded by the state and the Federal Government, the major burden of the expenditures becomes, again, the large city's responsibility. In 1969, the Chicago school system, with an enrollment of 563,178 students, had 2,858 teachers for the handicapped. The rest of Cook County, with an enrollment of 1,034,272 students, had only 1,813 teachers in the above category. Costs of education for the handicapped are 4 to 5 times the cost of a general program.[40] And the large city with proportionately more poor children has more requests for this service.[41]

In 1970-71, the per-pupil cost of general education in Detroit was:

Elementary	$688
Junior High School	937
Senior High School	930

The cost per pupil of education for the handicapped was:

Blind	$2,895
Orthopedic	2,400
Deaf	3,801
Special A (younger children with special problems)	1,304
Special B (older children with special problems)	1,449
Special Preparatory	1,155
Ungraded	1,710
Trainable	3,369
Emotionally Disturbed	2,668

During the same year, Detroit spent nearly $17 million for the education of the handicapped. Even if it could be assumed that its needs for education programs to serve the handicapped were typical of the rest of the Nation, Detroit would need to spend approximately $34 million *more* each year to fulfill its obligation to the children in need of additional services if they, too, were to receive an equal education.

Vocational or Career Education. More than half the central cities' high school graduates do not go on to colleges or universities. Instead, they seek employment after receiving their diplomas. Different facilities and equipment, as well as qualified instructors, are necessary to prepare youngsters for post-high school careers. A normal classroom is inadequate for industrial programs and the training of machinist, manufacturing, or trade apprentices. Additional space, technical installations, machinery, etc., all require extra funds. These programs require more finances wherever they are, and the central city has a greater need than the communities which send most of their students to colleges or other places of higher education. The average additional cost for vocational programs is about 30 percent above regular secondary education.

It is difficult to estimate what the additional cost would be if large cities would provide adequate programs in vocational or career education. Yet it is clear that such programs are necessary for nearly 50 percent of today's high school students. An increase of 30 percent, the estimated additional cost for vocational education, would require about $10 million for Detroit's high schools. This additional sum does not include the costs for the approximately 25 percent higher retention power of vocational education, since the present lack of programs undoubtedly contributes to the current high dropout rate.

Due to their multiplicity of problems, the large cities' unique educational needs are disregarded because of the pressing demands for salaries, minimum building needs, and disproportionate expenditures for additional services arising primarily from conditions of poverty. Thus, the auxiliary services necessary to enable youngsters to learn—health and psychological services, social workers, reading specialists, and the many others—are neglected. In a study made by Benson and Kelly for the State of Rhode Island in 1966,[42] they stated:

> ". . . the eight cities accounted for 58.3 percent of average daily membership in the public schools in 1964-66; (they) had 76.1 percent of the mentally retarded and 70.8 percent of the handicapped children.
>
> "In the schools of the cities, 69.8 percent of the statewide total expenditures was spent on school health services and 98 percent of the statewide expenditures was spent on locally administered vocational school programs. In the cities, 65.7 percent of the expenditures were for evening schools and 70.4 percent of expenditures for summer schools. Under their fiscal pressures of paying higher than average salaries and of providing an array of special programs, it is then not surprising to find that the cities accounted for only 55.4 percent of statewide expenditures on textbooks and supplies."

These figures have a familiar ring. How well a superintendent recalls the many times decisions had to be made to extend the painting schedule of buildings from 5- to 6-year intervals, the purchase of new textbooks from 5- to 6- or 7-year intervals, and the replacement of new boilers from a 30-year schedule to longer. And, the many times the personnel office had to call school principals and tell them that substitute teachers could not be provided because of financial shortages or lack of substitute teachers.

4. Summary

A recapitulation in dollar terms comparing school expenditures in Detroit and the State of Michigan will serve most clearly to demonstrate the urban costs of genuine school offering equalization.

Normal School Expenditures

A. School Construction—using an example, which is conservative in relation to the actual annual construction needs of an urban school system, the construction in 1971 of two elementary schools, one junior high school, and one senior high school:

1. Acreage—(based on representative sites in Detroit; rural sites generally are larger due to open and cheap land):

10 acres for two elementary schools
10 acres for one junior high school
20 acres for one senior high school

40 acres total

2. Cost of Land—average estimated cost per raw acre in Michigan was $2,000; average estimated cost per acre for Detroit *above* the state average was about $125,000 or higher. The state cost for land is 40 acres x $2,000 or $80,000. The *additional* estimated cost for Detroit above the state average is 40 acres x $125,000 or $5,000,000.

3. Construction Cost—the estimated average cost of school construction for the State of Michigan was $2,500 per pupil for elementary schools, and $3,000 per pupil for both junior and senior high schools. The estimated average cost in Detroit was $2,537 per pupil for elementary schools, $4,000 per pupil for junior high schools, and $4,879 per pupil for senior high schools.*

Our example will use as average enrollment figures 800 pupils per elementary school (1,600 for two schools), 1,500 pupils for the junior high school, and 2,500 pupils for the senior high school.

Thus, the cost of construction in the state for two elementary schools is 1,600 pupils x $2,500, or $4,000,000; and for one junior and one senior high school, 4,000 pupils x $3,000, or $12,000,000. The total state cost for the four school buildings is, then, $16,000,000.

Detroit's cost for the two elementary schools is 1,600 pupils x $2,537, or $4,059,200; one junior high school, 1,500 pupils x $4,000, or $6,000,000; and one senior high school, 2,500 pupils x $4,879, or $12,197,500—a total cost of $22,256,700 for the four buildings. This is $6,256,700 *above* the state average.

The urban cost of providing the same four school buildings in Detroit as compared to the average for the State of Michigan is an

* The state figures are from the Michigan Department of Education, and Detroit's figures come from the Housing Division, Detroit Board of Education. The small difference for the cost of elementary school construction in Detroit is partially due to the limited facilities besides the classroom—auditoriums, lunchrooms, libraries, etc.—and a larger school unit than the state average. The higher costs for Detroit junior and senior high schools are due primarily to the need for special classrooms geared to career education programs, since over 50 percent of Detroit's high school graduates do not go on to college. In recent years, high schools built in Detroit did not provide gymnasiums, cafeterias, and auditoriums separately but instead used a multipurpose space to serve all three functions.

additional $5,000,000 for land and $6,256,700 for school construction, or a total additional urban cost of $11,256,700.

B. School Personnel—comparing Detroit with the average of 129 small rural districts in Michigan in the 1970-71 school year:

1. Operation of Schools (salary only)—the total enrollment for the 129 rural school districts was 17,855 pupils, as compared to Detroit's enrollment of 289,382 pupils. The average salary cost per pupil in the 129 districts was $30.01; in Detroit it was $69.24. The salary *differential* between the rural districts and Detroit was $39.23 per pupil. The *additional* cost to Detroit for operational salaries was $39.23 x 289,382 pupils, or $11,352,455.

2. Maintenance (salary only)—the average per-pupil cost of maintenance salaries for the 129 rural districts was $1.89, compared to $26.50 for Detroit. The *differential* was $24.61, and the *additional* cost to Detroit was $24.61 x 289,382 pupils, or $7,121,691.

3. Attendance Service (salary only)—the 129 rural districts had *no* salary expenses in attendance service, compared to Detroit's $9.02 per pupil (the state average was $2.70). Thus, the *additional* cost for Detroit's attendance service salaries was $9.02 x 289,382, or $2,610,225.

4. Average Teacher Salaries—the average teacher salary for the 129 rural districts was $8,387, compared to Detroit's average of $11,475. The Detroit *differential* was $3,088 per teacher for 11,136 teachers, or $34,387,968.

The total estimated personnel costs to Detroit above the average for the 129 rural school districts are $55,472,339.

Miscellaneous Expenditures

The following are estimated annual expenditures unique to large cities, using Detroit as an example for the 1970-71 school year:

Vandalism	$ 1,000,000
Security guards	366,000[a]
Lunchroom service	150,000[b]
Bus tickets for indigent high school students	770,990[c]

[a] Los Angeles reported $3,400,000 for the same year.

[b] Lunchrooms are expected to be self-supporting due to charges made to students and federal-state grants. But Detroit's need for free lunches exceeded these revenues by the indicated figure, which was the average annual excess between 1967 and 1970.

[c] The state provides for transportation when the distance to school is at least 1½ miles *outside* the school district. Detroit's students travel longer distances *within* the city, but the school system is not reimbursed. The cost to the city actually was greater than $770,990 since the city's public transportation system offers a reduced rate to the schools.

Transportation for students to relieve overcrowding and for safety (excluding federal and state financed programs)	2,773,500
Summer school service	100,000
"Still Alarm" service	110,225
Educational upgrading for older buildings	10,000,000[d]

The estimated miscellaneous annual expenditures unique to large cities (with Detroit as the model) are $15,270,715.

Aspirations for Equalized Programs

The augmented costs of normal operations in Detroit's school system do not take into account the additional requirements for a more genuine equalization of educational offering. For example, if in 1968 Detroit had aspired to have a class size equal to the state average, an additional 1,200 teachers would have been required, at an additional cost of $12 million. Or, if in 1970-71 Detroit had serviced the number of children estimated to need special education, the additional sum required would have been $34 million. Or, in the same school year, if Detroit had offered a career education program adequate to serve its noncollege-oriented students, it would have required an additional $10 million. A better index of these same program equalization aspirations is the number of professionals per thousand pupils. If, in the 1970-71 school year, Detroit had aspired to have 60 professionals per 1,000 pupils—a ratio existing in many suburbs in the Nation and surpassed by four suburban Detroit school districts—*the Detroit school system would have required an estimated increase in budget of $70,000,000.*

To calculate the urban cost of school equalization, the foregoing several categories must first be totaled:

School Construction	$ 11,256,700
School Personnel	55,472,339
Miscellaneous Expenditures	15,270,715
Equalized Programming	70,000,000
	$151,999,754

[d] With an average age for school buildings in Detroit of 40 years, new education facilities, laboratories, better lighting, new boilers, etc., must be added annually, at the indicated annual estimate.

In 1970-71, the total school expenditures for Detroit (including federal and state special grants) were:

Cost of Conduct of Schools	$263,972,902.85
Other General Fund Expenditures	14,810,221.79
Building Fund	22,153,034.21
Debt Retirement Fund	12,684,032.00
	$313,620,190.85

Thus, the urban cost of school equalization for Detroit in 1970-71 would have been 48.5 percent. In other words, for Detroit to have offered the same education to its pupils as the suburban and non-metropolitan school districts in Michigan, Detroit's annual school budget would have had to be increased by approximately half again.

It is important to note that the Detroit urban cost is *not* being offered as a general formula applicable nationally, since yearly costs will vary from city to city and in the relationship of each city to its own state. It should be entirely possible, however, to duplicate the calculations for the categories indicated in each large-city school system in relation to its own state, and thus to arrive at a specific multiplier factor for the urban cost of school equalization in each large city.

Detroit's overall school expenditure in the 1970-71 school year amounted to $1,083.75 per pupil. The additional estimated need amounted to $525.25 per pupil, which would have brought the per-pupil expenditure up to $1,609, a figure still below that of many suburban school districts. This fact underscores the central proposition of our study: to achieve genuine statewide educational offering equalization, any fair state funding formula must be weighted for the indigenous costs of urban education.

References

1. See the Urban Institute, *Public School Finance: Present Disparities and Fiscal Alternatives*, 2 vols., Jan. 1972. A report prepared for the President's Commission on School Finance (McElroy Commission), *Schools, People and Money—the Need for Educational Reform*. Washington, D. C.: U.S. Gov't. Printing Office, 1972.

   The Research Council of the Great Cities, *The Challenge of Financing Public Schools in Great Cities*. Chicago, Ill., 1964.

   J. S. Berke and J. J. Callahan, "*Serrano* v. *Priest*: Milestone or Millstone for School Finance," 21 *Journal of Public Law* (1972).
2. See Alvin Toffler, *The Schoolhouse in the City*. New York: Frederick A. Praeger, 1968 (Chapter 4, "The Decaying Schoolhouse," by Ben E. Graves).

   Frederick G. Fox, *The Financial Problems of Large Urban School Districts* (mimeo.). Budget Division, Los Angeles Unified School District, Jan. 18, 1972.
3. *Annual Financial Report of the Board of Education of the City of Detroit*, June 30, 1971.
4. *The New York Times*, September 11, 1972.
5. *Op. cit.*, Frederick G. Fox, p. 5.
6. *Op. cit.*, The Research Council of the Great Cities.
7. See Joel S. Berke, Stephen K. Bailey, Alan K. Campbell, and Seymour Sachs, *Federal Aid to Education: Who Benefits?* A committee print of the U.S. Senate Select Committee on Equal Educational Opportunity, 92nd Congress, 1st Session, Washington, D. C.: U.S. Gov't. Printing Office, April 1971, p. 21.
8. *Op. cit.*, Frederick G. Fox.
9. *Op. cit.*, Alvin Toffler, p. 61.
10. *Ibid.*, p. 62.
11. *Op. cit., Hearings—Select Committee on Equal Educational Opportunity of the U.S. Senate*, p. 6606.
12. *Ranking of Michigan Public High School Districts by Selected Financial Data 1970-71*. Bulletin 1012, Michigan Department of Education, Dec. 1971.
13. *Ibid.*
14. Lynn H. Fox and Gordon E. Hurd, *Finances of Large-City School Systems, A Comparative Analysis*. U.S. Office of Education, Washington, D. C.: U.S. Gov't. Printing Office, 1971, pp. 52-53.

15. See *Rank Order Arrangement of Data for Unified School Districts* (1970-71), California, p. 105.
16. Michigan Department of Education, *Analysis of Michigan Public School Revenues and Expenditures, 1970-71.* Bulletin 1101, Michigan Department of Education, Dec. 1971.
17. Metropolitan Detroit Bureau of School Studies, Inc., *Public School Membership, Financial Data, and Costs Per Pupil in the Metropolitan Detroit Six-County Area.* Detroit, Mich., Jan. 1971.
18. *Ibid.*
19. James B. Conant, *Slums and Suburbs.* New York: McGraw-Hill Book Co., 1961, p. 67.
20. *Op. cit.,* Metropolitan Detroit Bureau of School Studies, Inc.
21. *Public School Finance: Present Disparities and Fiscal Alternatives,* 2 vols. Prepared by the Urban Institute, Betsy Levin, Project Director, for the President's Commission on School Finance, p. 101.
22. Betsy Levin, Thomas Muller, and Corazon Sandoval, *The High Cost of Education in Cities—An Analysis of the Purchasing Power of the Educational Dollar.* Washington, D. C.: Urban Institute, 1973, Table VIII.
23. *Op. cit.,* Betsy Levin, *Public School Finance: Present Disparities and Fiscal Alternatives,* p. 105.
24. Betsy Levin, "Public School Finance: Who Pays and Who Benefits?" Paper presented at 15th National Conference on School Finance (mimeo.), New York City, March 28, 1972, p. 23.
25. *Ibid.,* pp. 25-30.
26. See *Salary Schedule Effective Oct. 1, 1970,* Office of Personnel, Board of Education of the City of New York, and *Salary Schedules and Fringe Benefits, 1970-71,* N. Y. State Teachers' Association.
27. *Illinois Teacher Salary Study,* Department of Educational Research, the Office of the Superintendent of Public Instruction, State of Illinois, 1971-72, Part IV.
28. *Op. cit.,* Betsy Levin, "Public School Finance: Who Pays and Who Benefits?" pp. 25-30.
29. *Mobility Report,* Detroit Public Schools, 1970.
30. When we looked at individual cities, the disparities were greater: Philadelphia per-pupil cost for attendance services was $9.45 and Lower Marian School District was $0.35; New York City's cost was $12.67 and East Meadows School District (with 16,000 average daily membership) was $0.67 per pupil. *Statistics of Local Public School Systems, Finance 1968-69.* National Center for

Educational Statistics, U.S. Office of Education, Washington, D. C.: U.S. Gov't. Printing Office, June 1971, p. 6.
31. Joseph Froomkin, Inc., *Estimates and Projections of Special Target Groups Populations in Elementary and Secondary Public Schools*, Jan. 1972, for the President's Commission on School Finance.
32. *Ibid.*, pp. 3-9.
33. Robert Lewis, "Growth of Urban Poverty," Michigan State University, Feb. 3, 1972.
34. See *Program 1969*, Conference of Large City Boards of Education, Albany, N. Y., Oct. 1968.
35. The New York State Commission on the Quality, Cost, and Financing of Elementary and Secondary Education (Fleischmann Commission). Albany, N. Y., 1972.
36. August C. Bolino, *Manpower and the City*. Cambridge: Schenkman Publishing Co., 1969, pp. 4-5.
37. See *Government Research on the Problems of Children and Youth*. Washington, D. C.: U.S. Gov't. Printing Office, Sept. 1971, p. 16.
38. Edwin W. Martin, "Special Education: New Priority, New Money," *Nation's Schools*, Oct. 1969, p. 57.
39. *School Management*, Oct. 1967, p. 93.
40. *Fall Pupil Enrollment and Teacher Statistics, Illinois Public Schools, 1970-71 School Year*. Division of Finance and Statistics, Office of the Superintendent of Public Instruction of Illinois, p. 7.
41. Wilson E. Riles, Chairman, *The Urban Task Force Report*. New York: Frederick A. Praeger, 1970, p. 54.
42. Dr. Charles S. Benson and Dr. James A. Kelly, *Consultants' Review and Report on the Rhode Island Comprehensive Foundation and Enhancement State Aid Program for Education*. Rhode Island Special Commission to Study the Entire Field of Education, Providence, R. I., Dec. 1966.

III. Special Educational Needs Of Deprived Children

*By Arthur J. Levin**

PERHAPS the thorniest problem in the allocation of equal educational resources is that related to "educational need." Equality most often is discussed in terms of inputs into the educational system. However, some authorities have maintained that *Brown* implicitly contained a result, or "output," standard of educational equality, justifying desegregation on the ground that it would eliminate racial inequalities in student achievement. Others maintain that there is an obligation under the Fourteenth Amendment to distribute educational resources in a manner that eliminates any inequalities in school achievement not attributable to innate difference in intellectual ability. Both arguments view equality as based on achievement outcomes rather than resource inputs.

The operational difficulty with this concept is most apt to be one of definition. In its (Nov. 15) 1968 decision in the *McInnis* v. *Shapiro* case, the U. S. District Court for the Northern District of Illinois, Eastern Division, stated:

"We conclude we have jurisdiction. After examining the complaint,

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and studying the extensive briefs filed by the respective parties as well as the brief of the amici curiae, we further conclude that no cause of action is stated for two principal reasons: (1) the Fourteenth Amendment does not require that public school expenditures be made only on the basis of pupils' educational needs,[4] and (2) the lack of judicially manageable standards makes this controversy non-justiciable . . .

[4] "While the complaining students repeatedly emphasize the importance of pupils' 'educational needs,' they do not offer a definition of this nebulous concept.

"Presumably, 'educational need' is a conclusory term, reflecting the interaction of several factors such as the quality of teachers, the students' potential, prior education, environmental and parental upbringing, and the school's physical plant. Evaluation of these variables necessarily requires detailed research and study, with concomitant decentralization so each school and pupil may be individually evaluated . . ."

The court suggested that the plaintiffs seek redress in the legislature rather than in the courts. The U. S. Supreme Court affirmed the lower court decision in 1969, thereby apparently barring "educational need" as a constitutional requirement in a state's school funding system.

The Problem

Regardless of the legal niceties concerning "educational need," there is no question of its reality in central-city school districts. In 1965, Kenneth Clark described the academic performance of Harlem pupils in reading and arithmetic: "In the third grade, Harlem pupils are one year behind the achievement levels of New York City pupils. By the sixth grade they have fallen nearly two years behind; and by the eighth grade they are about two and one-half years behind New York City levels, and three years behind students in the nation as a whole."[1]

A major outcome of the reanalysis of the original Coleman Report[2] data indicated that the average achievement of children who are poor or who are members of minority groups is lower at every level of schooling than that of the average middle-class white pupil, and this finding held true for all minority groups in the survey, except Oriental Americans. One of the most thorough analyses of Coleman data on achievement by social class was reported in an Office of Education study in 1969,[3] which defined social class by mother's and father's educational level and father's occupational level. The investigators found at the sixth grade that the grade-level equivalent for the average middle-social-class white child was 6.5; the equivalent grade level was

3.6 for Puerto Ricans, 4.1 for Mexican Americans, 4.7 for Negroes, 5.1 for Indians, 6.1 for Oriental Americans, and 5.6 for whites who were lower class. There were similar findings at the ninth and twelfth grades.

Studies by Lloyd Warner, Allison Davis, August Hollingshead, Robert Havighurst, and Patricia Sexton have offered substantial data indicating that correlations exist between socio-economic level and educational success. Further, poverty and poor education, as Patricia Sexton shows in *Education and Income*,[4] go hand in hand. While the affluent underachieving student gets the best that an inadequate educational system can offer, the poor get the very worst. Not only are the disadvantaged poor not ready for the schools, but the schools, by and large, are not ready for them. Poverty is a stigma that the schools often unwittingly take as a sign of personal unworthiness.

Poverty has a more subtle, crushing dimension than economic disadvantage—the lack of money to buy adequate food, shelter, or clothing. To be poor is to be stigmatized by our society. A man's worth is determined by how much money he has. Lacking financial worth, he lacks personal worth. He is all too willing to accept society's value definitions and consider himself a failure. He feels impotent; he believes there is little he can do about his destiny. The social destructiveness of poverty, slum life, family instability, language barriers, unemployment, and institutional discrimination leads to self-deprecation—the negation of the victim's ego.[5]

According to a recent study,[6] in terms of both nonwhite population and proportion of low-income families, large central cities lead their surrounding areas by substantial proportions. In the 37 largest metropolitan areas, central cities average better than 20 percent black population, while the outlying areas have approximately five percent. Furthermore, the percentage of nonwhite students in the schools is considerably higher than that in the general population in the cities, averaging about 20 percent greater in the 15 largest cities. Concentrations of households with incomes under the poverty level also constitute a higher proportion of central-city populations, averaging over 17 percent of the total population in 12 of the largest cities for which current figures are available.[7]

Thus, central cities have a disproportionate number of students who are apt to present special learning problems and whose education requires higher resource inputs in terms of teaching and counseling time and special programs to compensate for environmental disabilities. This is not only a city problem. Rural areas also have their share of

poverty-stricken families, particularly where small, private farms have been displaced by corporate farming. The poverty families of Appalachia, and the approximately two million migrant workers, are other examples of rural economic problems.

But central cities must pay higher prices for educational goods and services, as was documented in Chapter II. Higher costs in the school system are but part of the overall financial problem in the central city. A greater problem in raising educational revenues derives from the far higher costs for general public services in the cities than in much less densely populated suburbs. Thus, the tax dollar in the city must support a far heavier burden for noneducation services. The result is that while approximately 30 percent of the city expenditures are for education, suburbs devote more than 50 percent of their budgets to schools.

What Can Be Done?

The Coleman Report produced one incontrovertible finding—that there is massive inequality in public school educational achievement along social class and racial lines. Although the Coleman Report did not study compensatory education as such, it did engender a major controversy in educational and political circles over traditional compensatory remedies proposed by educators—increased expenditures, reduced class size, improved facilities, ability tracking, etc.—all of which seemed to have little beneficial effect on improving the achievement of minority group and poor students. Reanalysis of the Coleman data in the Harvard University faculty seminar on the Coleman Report[8] seems to have confirmed all the major findings of the original report.

James Coleman himself, in 1964, identified one aspect of the problem:

> "It is painfully evident to anyone who attempts to study a social system that our quantitative research techniques are in their infancy. For, by sensitive observation and description (as exemplified, say, by William Foote Whyte's *Street Corner Society*), we can trace the functioning of a social system. Yet, when we attempt to carry out quantitative research in such a system, we find ourselves stymied. We shift from a sensitive examination of events, in which intimate sequence in time suggests causal relations between events, to a crude measurement of 'characteristics' and a comparative cross-sectional analysis that relates one characteristic to another. That is, when we shift from qualitative reporting to quantitative analysis, we change our very mode of inference."[9]

In the reanalysis of the Coleman data, some researchers do contend that there is a relationship between resources and achievement. The Center for Educational Policy Research, which carried out one of the most thorough reviews of the Coleman Report and other data on the issue, reported that its members came to different conclusions. However, the Center researchers said that even if there was such an effect of resources on achievement, generalization would be difficult to make:

> ". . . the effects are too complex and subtle for researchers to find any general 'laws' that affect large numbers of schools, or for legislators, school boards and school superintendents to make general policies that will make sense across the board. Additional resources may result in higher achievement in some cases, but they may also be followed by a decline in achievement in others. At present, nobody has the slightest idea what differentiates the first set of cases from the second."[10]

How, then, can the educational achievement of minority group and poor students be improved? In 1967, the U. S. Commission on Civil Rights brought together the largest number of evaluations of compensatory programs, none of which seemed to show any sustained academic improvements. The Commission concluded:

> ". . . the compensatory programs reviewed here appear to suffer from the defect inherent in attempting to solve problems stemming in part from racial and social class isolation in schools which themselves are isolated by race and social class."[11]

David K. Cohen, who was principal author of the Commission study, and presently is Associate Professor of Education at the Harvard Graduate School of Education and Research Associate in the Center for Educational Policy Research, continued his study of segregated compensatory programs and, in 1968, concluded:

> "After a few years of experience with such efforts, what have the results been? By now the existing evidence is fairly well known: compensatory programs in schools isolated by race and social class have resulted in no substantial or lasting improvement in students' academic competence. Evaluations have been undertaken in a number of different school systems, on programs with different emphases, under varying conditions of expenditure for school improvement. The data are scarce and very imperfect, but the uniformity of results cannot be ignored."[12]

Dr. Cohen went on to demonstrate that while effective compensation in segregated schools is not impossible, the fundamental changes required in the organization of the schools and the enormous costs involved, on the order of between $100 billion and $160 billion in the first ten years, are beyond political practicability, in addition to the

undesirable social effects of continued social class and racial isolation. Citing the Coleman Report and other studies to document the persistent relationship between social class and achievement, he poses two policy implications from the research findings: (1) racial desegregation is the necessary concomitant of social class desegregation for Negro students, and social class desegregation is required to produce the fullest academic benefits; and (2) interracial acceptance, classroom desegregation, and minimal tension seem to be the specifically racial conditions for academically sound desegregated situations.

But, although desegregation reduces the gap between the distribution of achievement for Negroes and whites, it does not eliminate it. Racial and social class desegregation may be a precondition for improvement, but a good deal of educational improvement also will be required in desegregated situations. Evaluations of Project Concern in Hartford and Greenburgh District No. 8 in New York found consistent positive results only from a combination of integration *and* compensation.

In addition to school desegregation, on a metropolitanwide basis for those jurisdictions with minority-impacted populations, a great variety of other suggestions have been made to improve educational attainment for all students. The need for more research, for more sensitive identification and measurement of the characteristics that affect pupil performance is universally accepted among scholars. New kinds of schools should be developed and evaluated, and in existing schools new sorts of educational policies substantially different from those of the past should be tried in a research and development manner. Outside influences, such as increased family income and employment training programs, should be evaluated for their long-run effects on education. The aims, goals, and measures of success in education themselves should be reappraised in terms of equality of educational achievement for the several racial and ethnic groups. It should be noted, parenthetically, that funds for educational research are currently only a fraction of one percent of the monies spent on education, as compared to an allocation of five to 10 percent in major industries.

Some argue that the concept of compensatory education can hardly be said to have had a fair test because compensatory programs tried to date have not departed radically enough from traditional practices. They urge a class size of no more than ten pupils and a tripling of the number of counselors, for example. Another approach much in the news is community control of the schools, letting ghetto residents

elect their own school governing boards and hire their own administrators, to increase accountability to the community. Various schemes for alternatives to public education also have been proposed, such as the voucher system to purchase education on the open market, or subcontracting out specific tasks or new programs. Other social critics believe that none of these suggested reforms will work unless relevant curricula are devised and teachers are specially trained to take advantage of whatever innovations are pursued.

"Genuine compensatory education," warned Harold Howe, then U. S. Commissioner of Education, "calls for massive per-pupil expenditures, for a wide variety of special services ranging from health and psychological care to remedial instruction, for better teachers with a better understanding of pupil attitudes and motivations, for new curricular materials and new ways of using them, for new involvement of parents and community in the affairs of the schools. Genuine compensatory education costs money—more money than is presently available to school systems in cities, which suffer from shrinking tax resources and from a system of state support which discriminates against them in favor of rural and suburban areas. Federal funds are available for compensatory education programs and some metropolitan school systems are using them effectively. The financing required, however, demands a greater commitment by state governments and by local taxpayers as well as by the Federal Government."[13]

Inevitably, any discussion of compensatory education ends in a debate about the role of money. Opponents argue that increased school spending for compensatory purposes does not produce desired results, claiming the root causes of low achievement stem from extra-curricular sources.* Proponents counter that sums so far spent for compensatory purposes have been so insignificant as to invalidate any claim, pro or con, regarding the efficacy of money. Expenditures are likened to the "critical mass" of atomic energy—until appropriations reach an educational critical mass, until the special needs of deprived children are made the subject of educational rather than political considerations,

* Christopher Jencks' views on this subject in the book he and seven Harvard colleagues recently published (*Inequality: A Reassessment of the Effect of Family and Schooling in America*. New York: Basic Books, 1972) have been so widely misinterpreted that Jencks felt impelled to reply: "In fact, however, the research we reported does not justify cutting school expenditures, abandoning desegregation, or giving up efforts at school reform. It has always been a mistake to assert that equality of educational opportunity could eliminate problems like poverty and injustice in America. Our research suggests we should stop making such claims. But the fact remains that American schools badly need improvement and this effort ought to continue." (*The New York Times*, December 1, 1972.)

we can no more dismiss the role of money in compensatory education than we can expect richer suburban school districts to now halve or quarter their school expenditures on the premise that "money doesn't matter."

Although it may be difficult to reduce to a formula the precise yield of increased expenditure on educational achievement, there does seem to be some gross relationship between the amount of money spent on education and the educational attainment of students. One such indicator is the Armed Forces Qualification Test (AFQT), administered on a uniform basis to all draftees and enlistees throughout the country. Table II shows the 1965 and 1970 per-pupil expenditures in average daily attendance compared with rates of failure in the mental portion of the AFQT, by geographical region of the country. For each of the two years shown, there is a marked correlation between dollars spent on education and test success (except, inexplicably, in the North East). An even more remarkable comparison could be made *between* the results for 1965 and 1970, showing a dramatic decline in the failure rate in each region correlated with sharply increased per-pupil expenditures, but too many unknown factors (such as possible differences in examination techniques and changes in regional demographic characteristics) may invalidate such a conclusion.

Similarly, the broad allegation that infusion of compensatory funds and services produces no or little commensurate improvement in educational achievement can be challenged by a more careful analysis of available facts. By comparing school-by-school achievement, instead of averaging citywide or district groupings, it is possible to obtain a more realistic assessment of what actually is occurring over a period of time. In such a study of 205 Detroit public schools,[14] the percentage of schools showing gains in means of Grade 4 reading test scores relative to the city mean for 95 non-Title I schools and 110 Title I schools* was calculated for the period 1965 to 1969. Approximately 38 percent of the non-Title I schools showed such a gain. By contrast, among the Title I schools with the highest concentration of compensatory services, federal and state, over 60 percent showed a gain. In the group with the second highest concentration of compensatory services, about 50 percent showed a gain. In the schools which received federal compensatory funds in 1966 and 1967, but where Title I funds were discontinued in September 1968, only about 32 percent showed a gain.

* Title I of the Elementary and Secondary Education Act (ESEA) of 1965 (P.L. 89-10) authorizes federal aid to target schools for compensatory education.

TABLE II. PER-PUPIL EXPENDITURE IN AVERAGE DAILY ATTENDANCE COMPARED WITH RATE OF FAILURE IN ARMED FORCES QUALIFICATION TEST

Region	1965 Expenditure per pupil (1) (Adjusted)*	1965 % Failed AFQT (2)	1970 Expenditure per pupil (3)	1970 % Failed AFQT (4)
South East	$459	21.6	$617	10.3
South West	588	12.6	694	5.6
North East	727	10.6	981	5.2
Middle East	613	8.1	842	3.6
Far West	697	4.9	910	2.9
Middle West	639	4.8	816	2.6

(Far West includes Alaska and Hawaii)

* Adjusted to dollars in 1970-71 purchasing power.

(1) "Fall 1965 Statistics of Public Elementary and Secondary Day Schools," by Samuel Schloss. Washington, D. C.: U.S. Department of Health, Education, and Welfare, Office of Education, Table 12.

(2) "Supplement to Health of the Army, Results of the Examination of Youths for Military Service, 1965." Office of the Surgeon General, U.S. Army, July 1966, Table 6.

(3) "Digest of Educational Statistics, 1971 Edition," by Kenneth A. Simon and W. Vance Grant. Washington, D. C.: U.S. Department of Health, Education, and Welfare, National Center for Educational Statistics, Tables 78 and 79.

(4) "Supplement to Health of the Army, Results of the Examination of Youths for Military Service, 1969 and 1970." Medical Statistics Agency, Office of the Surgeon General, Department of the Army, October 1971, Table 8.

In the same study, Title I and non-Title I Detroit public schools were compared for Grade 4 reading test score means increase (or decrease) in city standard score units from 1968 to 1970 (October 1968 Iowa tests of basic skills; January 1970 state assessment). Only 12 non-Title I schools showed an increase, while 72 showed a decrease. Of the Title I schools with the highest concentration of compensatory services, 43 showed an increase and only five decreased. Among the schools with the second highest compensatory services concentration, 32 showed an increase and five decreased. Even among the schools with minimum compensatory services, 20 increased and 12 decreased. Fourth-grade reading scores have continued to improve over the past two years with the continued infusion of federal and state compensatory funds, according to the results of citywide achievement tests administered by the Detroit school system in April 1972.[15] Even with a cautionary note about the possible influence of other factors, it still would seem difficult to gainsay the educational benefits of compensatory funding and services in the light of such findings.

Money may not be the entire answer, but increased funding is an indispensable condition for meeting the special educational needs of deprived children. Money will buy the necessary research, smaller classes, relevant curricular materials, special health and psychological services, massive training of more and better teachers, and whatever other techniques research and practice will find most promising in the future. It also is questionable whether other proposals for stimulating achievement such as reorganized integrated school structuring, alternative kinds of schooling, and more responsive community schools can be accomplished without an infusion of additional funds.

It is our conviction that when the final word is in on the relationship between dollars spent and education attained, a positive correlation will have been proved. The doubts voiced today seem to us not to arise from any flaw in the basic assumption that more money buys better education. Rather, they derive from such remediable factors as inefficiency in the expenditure of school funds, an inadequate science of teaching the disadvantaged, and unfavorable conditions of teacher-pupil relationships and student motivation in the underprivileged communities.

The Cost

To set a price tag on effective compensatory education is a virtual impossibility at this point in time, not only because past methods have proven ineffective and the research and innovations being suggested

have no economic reference points, but principally because how funds are deployed and used probably is more important than how much is appropriated. Also, setting school desegregation as a necessary precondition for effective compensatory efforts imposes costs quite apart from, although related to, meeting the special educational needs of deprived children.

One way of arriving at a "ball park" figure is to apply on a national scale the increase in per-pupil expenditures for instruction in smaller classes of the More Effective Schools Program in New York City, which was a significant departure in compensatory education in its intensification of instructional attention to individual children. Using the estimated figure of 8 million for the total ESEA Title I population and the approximately $500 MES per-pupil increment (1965), the sum of $4 billion is the result, which is two and one-half times the 1972 appropriation for Title I of ESEA ($1,597,500,000). This does not take into account the provision of additional teachers or the construction of additional classrooms necessary for the resultant reduced class size, which could easily double the "ball park" guesstimate to five times the current Title I ESEA appropriation.

The President's Commission on School Finance[16] emphasized that "The responsibility for providing every child with equal educational opportunity and a quality education is implicitly and unquestionably retained by the governments of the 50 states of the nation." The final report's major recommendation was "that each State assume responsibility for determining and raising on a statewide basis, the amount of funds required for education; for the allocation of these funds among the school districts of the State, and for the evaluation of the effective use of these funds." The Commission saw the Federal Government as "performing a leadership and pioneering role in long-range educational policy, but only a supplementary role to the States in the financing of school capital and operating costs."

The President's Commission did recognize the enormity of the problems of urban decay, urged the state governments to assign a high priority to the critical problems of the schools of the cities, and conceded that the Federal Government must assist the states in this area. The Commission recommended "the initiation by the Federal Government of an Urban Educational Assistance Program designed to provide emergency financial aid on a matching basis over a period of at least five years, to help large central city public and non-public schools finance such programs as: (a) development of experimental and demonstration projects on urban educational problems; (b) re-

placement or renovation of unsafe, unsanitary or antiquated school buildings and equipment; (c) addition of remedial bilingual, and special teachers and other professional personnel; (d) addition of teacher aides, and other supporting personnel; and (e) provision of instructional materials and services. Grant funds should not be used to increase salary or wage rates of school personnel."

The Commission also recommended that the Federal Government contribute part of the costs of a program to assist public and private agencies in the operation of early childhood education programs that include disadvantaged children. The major new federal contribution under the Commission's recommendations would be matching and incentive grants totaling about $1 billion a year over five years.

The New York State Fleischmann Commission Report,[17] portions of which were released in February 1972, embraced the concept of full state responsibility and funding, but only with massive help from Washington. The second richest state, New York already contributes $2 billion yearly to education, and it ranks at or near the top in the traditional indicators of quality—ratio of staff to students, teacher salaries, expenditures per pupil. Yet the report shows that the number of students scoring below minimum competence in reading and mathematics has increased since testing began in 1966, principally among the black and Spanish-speaking populations in the state's largest cities. Despite substantially higher funds, the educational system in New York has failed to cut the link between socio-economic status and achievement. The money, says the Commission, has gone largely for teacher salaries, more nonteaching and administrative personnel, and pensions.

The Fleischmann Commission recommended leveling up per-pupil expenditures to the district in the 65th percentile ($1,037). Higher spending districts would not be cut back, but would not be allowed local supplementary increases until other districts catch up. This would cost, in the first year, $125 million. However, this sum would not deal with the special costs of cities, where the special needs of deprived children are singularly underfunded. In New York City, where almost a million Puerto Ricans reside, about 135,000 students cannot speak English well enough to know what is going on in school, but only 4,000 have places in bilingual programs. There are some 215,000 handicapped youngsters—physically, mentally, emotionally—for whom no appropriate school services are available.

The Commission's solution was to add into the formula an extra weight (0.5) for children who score low on achievement tests. Instead

of the equalized per-pupil figure of $1,037, school systems would get half again as much for each low-achieving child, or $1,556. The formula does not make provision for other higher urban school costs attributable to "municipal overburden," higher teacher salaries, and higher living and service costs. Even so, implementation of the Fleischmann Commission recommendations in New York would eat up in the first year about $750 million of the $1 billion in the federal incentive money the President's Commission recommended for all 50 states.[18]

Two years ago, 12 states included in their state school expenditures additional allocations specifically earmarked for compensatory purposes, according to survey figures furnished by the U. S. Office of Education. Other states also may have included special sums or weighting in their foundation formulas for such programs as "remedial reading," "special education," or "large cities fund," but these were not specifically designated as compensatory programs. In the 1970-71 school year, the designated state compensatory funds averaged 0.88 percent of the total (state and local) instructional expenditures on public schools in these 12 states,[19] amounting to $162 million for compensatory aid. The average estimated for the 1971-72 school year is expected to drop to 0.73 percent, or under $160 million.

Minnesota, not included among these 12 states, recently enacted a school aid law which counts each child from a welfare family as an additional one-half pupil unit, at a cost of $37 million annually. According to Minnesota Governor Wendell R. Anderson, the largest part of these funds go to the central cities "for the educational overburden of hard-to-educate children."[20] California Governor Ronald Reagan, in his proposed 1972-73 school budget, offered $65 million in new state funds for education in an effort to help fiscally overburdened school districts. The Assembly Ways and Means Committee subsequently earmarked the Governor's $65 million for compensatory education (up from $39.4 million in 1971-72) and added another $100 million for general state aid to education.[21]

In a recent Brookings Institution study of projected federal tax needs,[22] an estimate of $9 billion annually was given as the cost of equalizing per-pupil expenditures within states. The Brookings study indicated that part of this equalization fund probably would have to come from the Federal Government. Although state funding formulas may continue to include some kind of compensatory weighting, it is evident that the money will have to come from sources other than state revenues.

Whose Responsibility?

Assuming the massive costs which have been estimated for equalizing educational expenditure among the public school districts in each state and for effective compensatory education programs, as well as the higher costs of urban educational goods and services demonstrated in Chapter II, it seems obvious that states and cities cannot hope to cope with the realities of special educational needs of deprived children without financial help from outside sources.

As far back as 1965, the Congress recognized this problem and accepted national responsibility for its resolution. Title I of the Elementary and Secondary Education Act of 1965 declared:

> "In recognition of the special educational needs of children of low-income families and the impact that concentrations of low-income families have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies serving areas with concentrations of children from low-income families to expand and improve their educational programs by various means (including pre-school programs) which contribute particularly to meeting special educational needs of educationally deprived children."

The Act was explicit about whom it meant to assist:

> " 'Educationally deprived children' means those children who have need for special educational assistance in order that their level of educational attainment may be raised to that appropriate for children of their age. The term includes children who are handicapped or whose needs for such special educational assistance result from poverty, neglect, delinquency, or cultural or linguistic isolation from the community at large." (45 C.F.R. Para. 116.1(i))

Courts may have found "education need" standards judicially unmanageable, but Congress had no difficulty establishing a funding formula: the number of children in the school district from families with annual incomes of $2,000 or less (determined by the Census) is added to the number of children from families receiving AFDC (welfare money), plus the number of children in institutions for the neglected and delinquent. This total number of children is then multiplied by half the state per-pupil expenditure, or by half the national per-pupil expenditure, whichever is greater.

Thus, Title I provides financial assistance to target schools which have high concentrations of low-income children residing within the school district. The Act is entirely federally financed and requires no matching grant. Payments under Title I go to state departments of

education, which in turn make payments to local school districts. Local districts are eligible under the law to receive the amount established by the formula upon submitting a project application. The state department of education is responsible for approving, rejecting, or renegotiating the project applications from local districts. The project applications do not go to Washington. The state department of education is entirely responsible for paying funds, monitoring, auditing, and evaluating the effectiveness of projects.

Given the economic reality that equalized funding of state school districts will require as much or more money than is presently expended on education in each state, and the political reality that as little of this increase as possible will be spent on the state's poor, there seems to be no pragmatic alternative to continued federal funding of the special educational needs of deprived children. The federal responsibility already is acknowledged, the federal machinery already exists, and this method of fiscal infusion into education seems best adapted to sharing combined federal and state responsibility for education. The poor and educationally deprived constitute a national burden that calls for national remedy, both inter- as well as intrastate.

The present level of federal funding for education is, of course, totally inadequate for this task. In 1971-72, states provided 41 percent of the funds used for public education, local school revenues provided 52 percent, while federal revenues accounted for only 7 percent. This 7 percent was divided among dozens of separate categorical programs with differing educational objectives, many of them serving to reinforce the disparities between "have" and "have not" districts. Impacted area aid is notorious in this respect.

Title I of ESEA, which provides only 40 percent of the federal funds for elementary and secondary education—about one dollar per participating child per school day—did however flow in greater proportion to districts that are blacker, poorer, and more urbanized. Title I thus did provide a small but strategic input into special educational needs. With greater appropriations, tightened administration, and elimination of abuses, Title I could become *the* vehicle for funding the special educational needs of deprived children, supplementing equalized state funding for general public education purposes.*

It is important to emphasize a number of caveats concerning Title I

* Because of the current national Administration's preference for revenue sharing, the various categorical programs of federal aid to education may be supplanted by Special Educational Revenue Sharing, which will include funds earmarked for the Title I program.

outlays. Title I funds are intended to *supplement* state and local education funds, not supplant them. The "comparability" requirement is that local districts must achieve comparable services, facilities, and expenditures in target and nontarget schools *before* Title I funds can flow to target schools. Under no circumstances can Title I funds be used to equalize racially segregated or poor schools with other schools in the system. Similarly, Title I cannot assume funding of programs previously supported by state or local funds, nor replace other federal money for such programs as providing food services to hungry children, school library resources, textbooks, vocational education, etc. Nor can Title I funds be used for construction purposes or the purchase of equipment except when clearly related to a specific Title I project and essential to its successful implementation.

Title I funds must be directed to target schools with concentrations of eligible children, not entire school populations in poverty areas, to remedy specific educational disabilities such as low reading levels, inability to speak English, need for greater individual attention, or need for instruction more relevant to the child's cultural background. Expenditures for health, food, or recreation can only be supportive of the main program of raising the educational attainment and skills of deprived children. Maximum practical involvement of parents of eligible children in the design, planning, operation, and evaluation of Title I programs also is required.

Under the Title I concept, the Federal Government would have total and overall responsibility for implementing the national policy of helping educationally disadvantaged children under a national funding formula related only to poverty and educational disadvantage. The state would have the responsibility for approving and overseeing local projects. Basic decisions about the allocation of Title I funds would be made at the local level. Thus, traditional relationships among governmental levels of decision-making would be maintained.

The Alternative

If some way could be found to escape the societal consequences of educational deprivation, as well as blink the personal tragedies, such an alternative could be considered. But there is no feasible means to avoid the social costs of compounding generations of poorly prepared and dysfunctional human beings. The societal penalties are severe and mounting—racial and economic polarization and discord, poverty, crime, welfare, drug addiction, bankrupt and decaying cities,

and so on—the too-familiar elegy of urban America. The costs are beyond monetary calculation; the ultimate survival of this Nation itself is at stake.

We must, therefore, reverse our course of human wastage through the many means already known to us, and others yet to be discovered. If past experience is any guide, the schools must play a leading role in this socialization process, regardless of whatever else is done extra-curricularly. Expenditures even of the magnitude of reordering our national priorities may not—will not—be too great a price to pay for a society in which each individual is accorded equal access to a productive and meaningful life. There is no alternative.

References

1. Kenneth B. Clark, *Dark Ghetto*. New York: Harper & Row, 1965.
2. James S. Coleman, *et al., Equality of Educational Opportunity*. Washington, D. C.: U.S. Gov't. Printing Office, 1966.
3. Tetsuo Okada, Wallace M. Cohen, and George W. Mayeske, *Growth in Achievement for Different Racial, Regional and Socio-Economic Groupings of Students* (mimeo.). Washington, D. C.: Office of Education, U.S. Department of Health, Education, and Welfare, May 1969.
4. Patricia Cayo Sexton, *Education and Income*. New York: Viking, 1961.
5. Mario D. Fantini and Gerald Weinstein, *The Disadvantaged: Challenge to Education*. New York: Harper & Row, 1968.
6. "Inequities in School Finance," by Joel S. Berke and John J. Callahan, a paper presented at the 1971 annual convention of the American Academy for the Advancement of Science, December 26, 1971, and reprinted as a committee print of the Select Committee on Equal Educational Opportunity, U.S. Senate, 92nd Congress, 2nd Session, January 1972.
7. Bureau of the Census, 1970, PC1-C, Table 90: Baltimore, Md., 18.4%; Milwaukee, Wisc., 13%; Memphis, Tenn., 19.8%; Nashville, Tenn., 14.7%; St. Louis, Mo., 21.1%; New Orleans, La., 26.8%; Phoenix, Ariz., 12.9%; Seattle, Wash., 12.6%; Denver, Colo., 15.3%; Kansas City, Kans., 15.8%; Atlanta, Ga., 20%; and Washington, D. C., 15.2%.
8. Frederic Mosteller and Daniel P. Moynihan, eds., *On Equality of Educational Opportunity*. New York: Random House, 1972.
9. "The Adolescent Society" in *Sociologists at Work*, Phillip E. Hammond, ed. New York: Basic Books, 1964.
10. "Education and Inequality: A Preliminary Report" to the Carnegie Corporation of New York (mimeo.), Cambridge, Mass., Center for Education Policy Research, Harvard University, 1970, as quoted by Gerald Grant, "Essay Review," *Harvard Educational Review*, Vol. 42, No. 1, February 1972.
11. U.S. Commission on Civil Rights, *Racial Isolation in the Public Schools*. Washington, D. C.: U.S. Gov't. Printing Office, 1967.
12. David K. Cohen, "Policy for the Public Schools: Compensation and Integration," *Harvard Educational Review*, Vol. 38, No. 1, Winter 1968.

13. Harold Howe II, "Preface." *Harvard Educational Review*, Vol. 38, No. 1, Winter 1968.
14. See Norman Drachler, "Equal Educational Opportunity in Michigan." *Hearings–Select Committee on Equal Educational Opportunity of the U.S. Senate*, 92nd Congress, 1st Session, Washington, D. C.: U.S. Gov't. Printing Office, October 1971, Part 19B, pp. 9698-9705.
15. *Detroit Free-Press*, October 25, 1972.
16. *Schools, People & Money–The Need for Educational Reform*, Final Report of the President's Commission on School Finance (McElroy Commission). Washington, D. C.: U.S. Gov't. Printing Office, 1972.
17. The New York State Commission on the Quality, Cost and Financing of Elementary and Secondary Education (Fleischmann Commission). Albany, New York, 1972.
18. Extracts from "School Finance: A Return to 'State Pre-eminence'," by Phyllis Myers, *City*, March-April 1972.
19. California, 1.0%; Colorado, 0.4%; Connecticut, 1.2%; Delaware, 0.4%; Hawaii, 1.0%; Michigan, 0.8%; New York, 1.4%; Ohio, 1.3%; Pennsylvania, 0.05%; Rhode Island, 1.2%; Washington, 0.8%; and Wisconsin, 0.97%.
20. Letter to the Editor, *Washington Post*, June 17, 1972.
21. Betsy Levin, Michael A. Cohen, Thomas Muller, and William J. Scanlon, *Paying for Public Schools*, Urban Institute, Washington, D. C., April 1972.
22. *Washington Post*, May 25, 1972.

IV. The Case For A Constitutionally Required "Equal Educational Offering" Standard

By John Silard

In the preceding analysis we have urged recognition of an "equal educational offering" standard which would provide funds to school districts within the state in proportion to cost differences in the delivery of equivalent education. Here we suggest that such a standard is not only good sense and equity, but may be constitutionally required to meet the Fourteenth Amendment guarantee that the state shall give equal treatment to its citizens. We venture that suggestion with full knowledge that the 1973 ruling by the U. S. Supreme Court in the *Rodriguez* case has hardly advanced the prospects for federal constitutional reform in public education finance. But experience in other areas of major public import demonstrates that judicial reluctance in early days of demands for reform frequently has given way to ultimate application of constitutional norms. In the area of public education equalization, where the constitutional theory and its initial litigation are but of recent origin, one vital key to achieving judicial relief may be the clarification of the underlying right and remedy being sought by the proponents. As the Supreme Court specifically noted in *Rodriguez* (at footnote 85), there is widespread disagreement

to date on that score. We suggest here that the Constitution calls for a simpler and educationally more significant remedy than the "fiscal neutrality" principle of *Serrano* and *Rodriguez*, and that it is a remedy capable of clear definition and application.

Since the school finance litigation commenced in 1968 proponents have offered four distinct and quite different constitutional standards of educational equality: the "educational need," the "taxing equality," the "expenditure equality," and the "equal educational offering" norms.

1. Educational Need. The standard which was postulated in the first school finance test case, brought in 1968 by the Detroit School Board against the State of Michigan, would have required the state to distribute school funds among districts commensurate with the "educational needs" of the students in each district. Precisely what was meant by "need" was not made clear, but presumably that standard called for financing to take account of disadvantaged children, mostly from minority racial and economic groupings, who have a demonstrable need for compensatory education in order to compete in achievement with more advantaged children. Indeed, a study done for the Detroit suit by James Guthrie[1] sought to give content to the "need" standard by suggesting that education funds be disbursed in such amounts as will facilitate equalization of student achievement scores in the school districts where the disadvantaged population is high. The "need" theory espoused by the Detroit Board was thus clearly tailored to the realities of the inner-city school system with its high concentration of disadvantaged children who require more costly compensatory schooling.

But the "need" theory met prompt and definitive judicial refutation. Within a few weeks after the Detroit case was filed, a similar federal court suit was filed in Illinois in the *McInnis* case. In 1969, a three-judge District Court dismissed that suit, specifically ruling that a "need" standard is impossible of judicial measurement or application.[2] The Supreme Court affirmed the Illinois ruling without opinion (394 U.S. 322 (1969)). A similar suit in Virginia (*Burruss* v. *Wilkerson*) was likewise dismissed, and once more the Supreme Court affirmed without opinion (397 U.S. 44 (1970)).

2. Taxing Equality. After the apparent demise of the "need" theory, the pendulum swung dramatically in the other direction, toward the far more restricted approach ultimately accepted in 1971

by the California Supreme Court in its historic *Serrano* ruling. The constitutional standard there advanced and adopted suggests no particular right on the part of the student to receive any given level of public education, commensurate with his "need" or otherwise. Instead, it focuses only upon the wealth discrimination against poorer localities in school taxing rates and school revenues, because under the present local property tax system of school funding the capacity of poorer districts to finance education is made dependent upon their limited taxable assets. The constitutional theory of *Serrano*, adopted in the subsequent decision in *Rodriguez* by the Federal District Court in Texas and recently rejected by the Supreme Court, is a limited theory essentially negative in its approach. It declares that what the state may *not* do is to make the level of school funding among school districts dependent on the amount of their local taxable assets. As the proponents of this constitutional standard have repeatedly emphasized, inequalities in school funding would remain permissible under their theory as long as the inequalities derive only from different tax *rates* among school districts rather than the differing yield per mill of tax which now obtains because the amount of taxable property varies greatly from district to district.

3. Expenditure Equality. A third possible equalization standard proposes equal expenditures per pupil in public education throughout the state's school districts. Little thought so far has been given to whether a dollar parity standard is fair or rational. Instead there has been a tendency to assume, because the *Serrano* litigation focuses on the dollar expenditure disparities under the current local wealth-based standard, that the remedy on the expenditure side is one which eliminates these dollar disparities. Of course, if education costs among state school districts were equal, then an equal expenditure per pupil standard would seem simple and commendable; but in fact it costs far more in some school districts than in others to deliver an equal quantum of educational offering. Accordingly, a standard which would equalize educational resources rather than just dollars is likely to gain increasing legislative and judicial favor as the equalization effort achieves wider acceptance and success.

4. Equal Educational Offering. The *Serrano-Rodriguez* norm offers obvious relief to tax-poor rural districts and would also advance their ability to increase their school revenues. But inner-city school finance problems do not derive from dependence upon local assessable property, because most major cities are still above the median in their

states in assessable property per school child. The plight of urban public education results instead from greater school costs, student populations needing costly compensatory education, and municipal services overburdens limiting school revenues available from local taxes. Inner-city districts therefore would have little to gain (and may even suffer loss) from a remedy which would merely remove the wealth factor in school funding, or even one which would equalize per-pupil expenditures.

It is in the interest of urban school districts to propound a constitutional theory not so visionary as the "need" principle, yet less confining than mere tax equalization or dollar parity. The school equality standard which would seem to offer that hope for our cities is one which postulates a Fourteenth Amendment requirement that the state's education system as far as possible provide equal educational offering to children in each district. That standard would not tolerate a funding system simply providing expenditure of equal dollars per child throughout the state when the same dollar will not buy the same educational services in each district, as has been demonstrated in detail in Chapter II. Instead, it would mandate a distribution of funds to each district commensurate with the number of children enrolled and the relative cost of providing education in that district. For instance, the largest single item of school expenditure is teacher pay, and since teacher pay is more costly in urban centers it is clear that the urban school districts would gain immediately and materially from an equal educational offering standard by supplements to their school revenues now heavily impacted by urban pay scales. The question, then, is whether the Constitution does in fact compel such a standard. We seek to demonstrate in the remainder of this chapter that it does.

A. The Governing Standard Of Review

Any discussion of the constitutional standard governing the provision of public education must begin by recognizing that the Supreme Court has applied a unique approach to the interpretation of the Fourteenth Amendment's "equal protection" clause. Under that clause, substantially different standards of review have been applied by the Court to the two major areas where the amendment has been given application: (1) a most permissive "rational basis" standard has been applied to state regulation of business and commercial interests; (2) a stringent "compelling state interest" standard has been applied by the

Court in a variety of "fundamental interest" situations.* Accordingly, the question with respect to the standard of review for public education inequality is whether courts will apply the permissive standard of the business regulation cases or the limiting rule of "compelling interest" frequently applied in human rights situations. The choice is critical indeed, for the two standards are radically different. Under the permissive test long applied in commercial regulation cases, the Supreme Court has left unimpaired even the most suspect and doubtful statutory differentiations.† In contrast, by the standard often applied in human rights cases, the state must show a "compelling interest" to justify intrusion upon individual rights or equities.[3] It was the Supreme Court's inability in *Rodriguez* to discern that education is a "fundamental interest" which led it to conclude that the more permissive constitutional standard is appropriately applied to public education inequalities.

An earlier case which illustrates the importance of the choice of standard is *Dandridge* v. *Williams*, 397 U.S. 741 (1970). There the Supreme Court (over dissents by Justices Douglas, Marshall, and Brennan) upheld a Maryland law which, under the federal Aid to Families with Dependent Children program, places an upper ceiling of $250 per month on the amount of a grant to a family no matter how many children there are in the family. The Court's majority found no denial of equal protection in the Maryland law, although families with numerous children and thus with manifestly greater need for support clearly suffer diminished assistance under its restrictive ceiling. In reaching its decision, the Court's majority relied heavily on the view that the statute is within the area of economic regulation wherein the Court applies its most permissive standard of review. Here, said the majority, "we deal with state regulation in the social and economic field, not affecting freedoms guaranteed by the Bill of

* Some decisions have asserted a third criterion: that race is a forbidden classification proscribing all legislation which distinguishes between members of different races (*McLaughlin* v. *Florida*, 379 U.S. 184, 198 (1964) (Stewart, J., joined by Douglas, J., concurring)). This doctrine of the "color-blind" Constitution arises from Justice Harlan's dissent in *Plessy* v. *Ferguson*, 163 U.S. 537, 559 (1896). See "Developments in the Law—Equal Protection," 82 *Harvard Law Review* 1065, 1088 (1969). The present issue of school inequality is not primarily racial in import.

† For example, such dubious state statutes as gave hiring preferences to the relatives of incumbent employees (*Kotch* v. *River Pilots*, 330 U.S. 552 (1947)) and barred employment of females as bartenders unless they were related to the owner of the bar (*Goesaert* v. *Cleary*, 335 U.S. 464 (1948)) have been upheld, with the Court hypothesizing reasons why, without invidious or preferential motives, the legislature gave preference to such employees.

Rights . . ." (397 U.S. at 484). Disregarding the objection by the dissenters that Maryland's family assistance program does in fact touch upon "fundamental rights" of health and sustenance, the majority viewed the statute as falling merely within the area of "economics and social welfare" (*Id.* at 485), where any reasonable legislative basis the Court can discern or hypothesize will serve to sustain a challenged law.

Dandridge dramatizes the critical importance in resolving a plea for public education equality of the determination whether education is deemed to fall within the area of "economics and social welfare," where the permissive standard of constitutional review applies, or more properly within the area of human rights and "fundamental interest," where there is a heavy burden on the state to justify differential treatment. So far the only authoritative school rulings on that choice of characterization are the decisions of the California Supreme Court in *Serrano* and the U. S. Supreme Court in *Rodriguez*.

Three principal points were emphasized by the California Supreme Court in its finding that education is a "fundamental interest": (1) that having an education is vitally important to the individual in his life chances; (2) that education is at least as important as analogous rights which have been found to be fundamental; and (3) that education is necessary for the informed exercise of political rights and thus the functioning of our democratic system. We proceed to review these three grounds relied upon in *Serrano* but rejected in *Rodriguez*, and to suggest an alternative, more direct approach to the "fundamental interest" issue under the First Amendment:

1. The Three *Serrano* Arguments for Recognition of Education as a "Fundamental Interest."

In its "fundamental interest" holding, the principal reliance of the California Supreme Court was on the point that education is critical for the individual's life opportunities. The court emphasized the various ways in which education is vital for advancement and participation in our society. For that proposition the court cited a number of its earlier rulings.[4] It quoted commentators who had emphasized "the pivotal position of education to success in American society." It quoted from the Supreme Court's opinion in *Brown* the statement that "education is perhaps the most important function of state and local governments," and vital for any child to "succeed in life" (487 P. 2d 1241, 1256). The underlying proposition thus voiced by the *Serrano* opinion is so obviously true that it hardly requires precedent or statistical documentation. While education is not a guarantee of success,

it is the teaching of our daily experience that those without it have the most restricted opportunity for livelihood and participation in community life.

A second predicate of the California court's ruling was a comparison of education with other areas enjoying the protection of the "fundamental interest" standard of review. In particular, the court compared in importance the right to an education with the rights of defendants in criminal cases and with the right to vote, which frequently have been granted the protective standard. In comparison with both areas, the court found education at least as important. Moreover, it found that even the effective enjoyment of such rights as those of defendants in criminal cases and of the citizen to vote depend upon an adequate education. At a minimum, said the court, "education makes more meaningful the casting of a ballot" (487 P. 2d at 1258).

The final point espoused by the California court was the vital role played by education in the functioning of our democratic institutions. The court quoted Supreme Court rulings to the effect that public schools are vital "for the preservation of a democratic system of government," constituting "at once the symbol of our democracy and the most persuasive means for promoting our common destiny" *(Ibid.)*. Education, said *Serrano*, is the basic tool for shaping democratic values.

Taken singly or in conjunction, three arguments espoused by the California court are persuasive for the proposition that the right to a decent education is "fundamental" in our society. But the U. S. Supreme Court in *Rodriguez* has rejected them. Central to that rejection is the Court's apprehension that so broad an approach to "fundamental interest" may transmute *all* social and economic interests into rights claiming judicial vindication under the Federal Constitution.

2. An Alternative Approach Under the First Amendment.

A different and more direct approach to the recognition of public education as a right deserving of highest constitutional protection, at the very least by the "compelling interest" standard of review, proceeds under the First Amendment to the Constitution (as incorporated within the Fourteenth Amendment against state intrusion). That approach is suggested by a distinction voiced in the majority ruling in *Dandridge*, which noted that under the First Amendment the Court has imposed the most stringent constitutional restrictions. The opinion emphasized, in distinguishing the subject of welfare, that "If this were a case involving government action claimed to violate the First Amendment guarantee of free speech," that might be crucial, because

when "otherwise valid governmental regulation sweeps so broadly as to impinge upon activity protected by the First Amendment, its very overbreadth may make it unconstitutional" (397 U.S. at 484). The majority opinion specifically contrasted First Amendment rights with the area of "economics and social welfare," where the permissive "rational basis" test applies. The line of Supreme Court decisions giving preferred and highest protection to the exercise of First Amendment liberties reaches back to the early 1930s—to *Near* v. *Minnesota*, 283 U.S. 697 (1931) and its progeny, and the Court's historic *Carolene Products* footnote.[5] There can be no question but that the Supreme Court gives "fundamental interest" protection to First Amendment rights and imposes the greatest burden upon the state to justify any infringements thereon.[6]

That principle could be directly dispositive here, if it were recognized that public education lies within the very center of the First Amendment's ambit. The core of the First Amendment secures freedom of individual thought, speech, and expression from governmental restraint or intrusion. The functioning of the democratic process is facilitated by the First Amendment's widest inhibition upon governmental efforts which restrain the expression of individual views and beliefs (*Sweezy* v. *New Hampshire*, 354 U.S. 234 (1957)). The central concern and historical origin of the amendment, moreover, is that in the area of *political* thought, expression, and association, government not be engaged in compelling conformity.

In view of that central purpose of the amendment, it becomes immediately clear that First Amendment interests are intimately involved when the state operates a public education system. The faculties of thought, speech, and expression of the masses of our citizens are shaped in the public school system which they attend in their formative years. The student who completes his public schooling after 12 years of instruction *has had his modes and capacities of thought, speech, and expression directly shaped in a government-operated system*. Inevitably, his political perceptions and views have been strongly influenced by his curriculum of studies and the content of his courses. Courses in civics and history directly mold the public school student's attitude toward government, conformity, and protest; his political ideology and perceptions are largely a function of the governmental education he received.

The strong correlation between political activity and education has been well described in the Guthrie study:

> "Among all of the significant determinants of political consciousness

and political participation, schooling appears to predominate. Almond and Verba describe the overwhelming importance of education in determining political orientation and postulate several means by which education relates to political orientation. The more educated person tends to exhibit a greater awareness of government's impact on the individual than is the case for persons of less education. Moreover, the more educated the individual, the greater his awareness of political issues, the greater is the range of persons with whom he discusses politics, the more likely he is to be a member of a political organization, and the more positive are his attitudes about the ability of people to govern themselves in a democratic fashion.

"Empirical evidence of the schools' effects on political attitudes is found in the extensive study of Hess and Torney. They examined the backgrounds and attitudes of approximately 10,000 elementary school students in grades two through eight selected from 16 middle class and 16 working class schools in eight cities. On the basis of their analysis, they conclude that, '. . . the school stands out as the central, salient, and dominant force in the political socialization of the young child.'

"Given this background, it is no surprise that virtually all studies on the subject have found a strong positive relation between educational attainment and political participation. Agger and Ostrom found education to be even more significant than income in predicting political participation. Education appears to be particularly important in explaining who is likely to cast a ballot. Moreover, the greater the individual's educational attainment, the more likely he is to become involved psychologically in politics. One of the best known authorities on the subject concludes:

" 'Perhaps the surest single predictor of political involvement is number of years of formal education. In short, the link between education on the one hand, and political participation and potential efficacy on the other has been well documented. Persons with higher educational attainment are more able and more likely to become involved in the political process and to influence the outcomes of those issues that affect them. Persons with lower levels of education not only are not as knowledgeable concerning political issues, and thus not as likely to be aware of matters affecting themselves, but also are less well informed about the entire political process and thus not as capable of expressing their views even when they are aware of relevant issues. Clearly, lack of schooling or lack of good schooling restricts one's ability to exercise his political rights.' " (See Reference 1, pp. 165-167, footnotes omitted.)

It might be said with justification that the government's influence on individual thought and expression through the public education system is overwhelmingly greater than through all other contacts between the state and the citizen. Thus it seems demonstrable that the most intimate First Amendment interests inhere in the character,

the quality, and the equality of the public school system wherein most citizens develop their faculties of thought, speech, expression, and political ideology.* Undereducation of public school students seems less dramatic in its First Amendment implications than compelled ideological conformity in the public schools, but it is no less damaging. A public school system that denies students opportunity to cultivate their independence of speech and thought, which derives only from quality education, may be more debilitating than one which seeks directly to indoctrinate dogma and ideological conformity. The functioning of our democratic system depends as much upon an enlightened and intelligent electorate as upon an electorate free of governmental indoctrination. Accordingly, it would be difficult to imagine a subject more immediately calling for application of the established First Amendment "compelling interest" standard of review than the matter of public education inequality. In our opinion, under that standard nothing less than equal educational offering throughout a state's school districts conforms with constitutional requirements.

B. The Argument For A Constitutional Requirement Of Equal Educational Offering

Any discussion of a constitutional requirement in public education must begin with the observation that what government is dispensing to the pupils in public schools is not money but education. That being the case, one may question at the outset whether constitutional theories and remedies such as "power equalization" or "expenditure equalization" can be assumed to achieve equality in the actual service which the state is offering to its students.† For if actual education

* *State of Wisconsin* v. *Yoder*, 92 S. Ct. 1526 (1972), where the Supreme Court upheld the right under the First Amendment of Amish parents to decline to send their children to public high school, is a recent illustration of how First Amendment concerns permeate public education. For other examples, see *Sweezy* v. *New Hampshire*, 354 U.S. 234 (1957); *Tinker* v. *Des Moines Independent Community School District*, 393 U.S. 503 (1969); *Pickering* v. *Board of Education*, 391 U.S. 563 (1968); *Meyer* v. *Nebraska*, 262 U.S. 390 (1923); *Perry* v. *Sindermann*, 92 S. Ct. 2694 (1972); *West Virginia State Board of Education* v. *Barnette*, 319 U.S. 624 (1943); *Epperson* v. *Arkansas*, 393 U.S. 97 (1968); and *Healy* v. *James*, 92 S. Ct. 2338 (1972).

† In *Sweatt* v. *Painter*, 339 U.S. 629 (1950), the Supreme Court was called upon to decide whether the two racially exclusive law schools provided by the State of Texas, one for whites only, one for blacks only, met the test of "substantial equality" as then required under the "separate but equal" doctrine. The Court held that the two schools were not substantially equal:

> "[W]e cannot find substantial equality in the educational opportunities offered white and Negro law students by the State. In terms of number of the faculty, variety of courses and opportunity for specialization, size of the

offered to students is significantly different in quality in different localities of the state, then it is difficult to see in what sense the state has given "equal protection" in its public education system to the students merely because local citizens in one district had a fair and equal chance to vote education money but failed to do so, or just because the same dollars with differing educational purchasing power are being spent on all school children but produce far less education in some school districts. In short, *within the contemplation of the Fourteenth Amendment's "equal protection" clause, the persons who are granted equal protection in the state's public school system are not taxpayers but the students, and the commodity which the state must afford them on an equal basis is not money but education.*

Moreover, the constitutional claim for equal education throughout the state is not refuted by the argument that the state is not discriminating against the public school students in the inferior school districts because it is merely the local character of our school funding system which causes inequalities. In our view, that answer to the plea for statewide equality cannot succeed once it is determined, as we have demonstrated, that in the area of public education the strict standard of constitutional review applies. Once the "compelling interest" standard of constitutional review is found applicable to education, the argument for statewide equality in public education is persuasive. That strict standard of review creates a presumption against differential treatment by the state, which only a very substantial governmental justification will serve to overcome. In the present context, the only justifying governmental interest which has been offered is that of local self-determination in the funding of public education. It is demonstrable, we submit, that such an interest falls far short of meeting the state's burden of justification under the strict constitutional standard.

The proposition that the state cannot permit localization of funding to defeat a right to equality in public education rests on two basic considerations. First, education is inherently individual and personal

student body, scope of the library, availability of law review and similar activities, the [white only] University of Texas Law School is superior. What is more important the University of Texas Law School possesses to a far greater degree those qualities which are incapable of objective measurement but which make for greatness in a law school. Such qualities, to name but a few, include reputation of the faculty, experience of the administration, position and influence of the alumni, standing in the community, traditions and prestige. It is difficult to believe that one who had a free choice between these law schools would consider the question close" (*Id.* at 633-34).

in character. Second, political subdivisions of the state, including its school districts, are not distinct sovereign entities within federal constitutional contemplation, and their existence cannot avoid the state's responsibility to afford equal protection to its citizens.[7] The ruling which supports the materiality of these two considerations is the Supreme Court's decision in *Reynolds* v. *Sims,* 377 U.S. 533.

In *Reynolds,* Alabama sought to justify the apportionment of its Senate and House of Representatives in a manner which gave more voting strength to residents of some counties than to those of others. The law provided that the Senate would consist of 35 members representing districts established along county rather than population lines, while the House of Representatives was apportioned in a similar fashion with only a modest population equalization factor. The Supreme Court found the Alabama system violative of the "equal protection" clause. The first issue which the Court reviewed was whether the Fourteenth Amendment forbids apportionment of a state legislature on other than a strict population basis. In deciding that it does, the Court relied heavily on the proposition that franchise rights are "individual and personal in nature," and that state legislatures represent "people, not trees or acres." As the Court stated it (377 U.S. at 561-63):

> "A predominant consideration in determining whether a State's legislative apportionment scheme constitutes an invidious discrimination violative of rights asserted under the Equal Protection Clause is that the rights allegedly impaired are individual and personal in nature. As stated by the Court in *United States* v. *Bathgate,* 246 U.S. 220, 227, . . . '[t]he right to vote is personal ***.' While the result of a court decision in a state legislative apportionment controversy may be to require the restructuring of the geographical distribution of seats in a state legislature, the judicial focus must be concentrated upon ascertaining whether there has been any discrimination against certain of the State's citizens which constitutes an impermissible impairment of their constitutionally protected right to vote. Like *Skinner* v. *Oklahoma,* 316 U.S. 535, . . . such a case 'touches a sensitive and important area of human rights,' and 'involves one of the basic civil rights of man,' presenting questions of alleged 'invidious discriminations *** against groups or types of individuals in violation of the constitutional guaranty of just and equal laws.' . . .
>
> "Legislators represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests. As long as ours is a representative form of government, and our legislatures are those instruments of government elected directly by and directly representative of the people, the right to elect legislators in a free and unimpaired fashion is a bedrock of our political system. It could hardly

> be gainsaid that a constitutional claim had been asserted by an allegation that certain otherwise qualified voters had been entirely prohibited from voting for members of their state legislature. And, if a State should provide that the votes of citizens in one part of the State should be given two times, or five times, or 10 times the weight of votes of citizens in another part of the State, it could hardly be contended that the right to vote of those residing in the disfavored areas had not been effectively diluted . . . Of course, the effect of legislative districting schemes which give the same number of representatives to unequal numbers of constituents is identical. Overweighting and overvaluation of the votes of those living here has the certain effect of dilution and undervaluation of the votes of those living there. The resulting discrimination against those individual voters living in disfavored areas is easily demonstrable mathematically. Their right to vote is simply not the same right to vote as that of those living in a favored part of the State. Two, five, or 10 of them must vote before the effect of their voting is equivalent to that of their favored neighbor. Weighting the votes of citizens differently, by any method or means, merely because of where they happen to reside, hardly seems justifiable."

There is the closest analogy between this analysis by the Supreme Court in the voting context and the question of the state's obligation to assure students in the public school system equality irrespective of the district of their residence. Just as the Supreme Court found impermissible different voting rights for citizens *"merely because of where they happen to reside"* in the state, it seems impermissible for the state to provide different education rights to students merely because of where they happen to reside. Just as the Court in *Reynolds* emphasized that voting is "individual and personal in nature" and state legislators "represent people, not trees or acres," education too is individual and personal in nature, and the schools are run for the benefit of the students rather than the school districts.* Accordingly, both the premise and the conclusion of *Reynolds*, concerning equality of citizens' voting rights irrespective of "where they happen to reside," supports the same proposition when it comes to unequal public education among a state's localities.

Echoing *Reynolds*' emphasis on the representative function of legislatures, the Supreme Court's *Red Lion* decision provides further powerful support for the constitutional requirement of equality in

* While public education is traditionally carried on in classrooms of many children, it seems clear that the total public education task addresses itself inherently to the development of the individual student. While the teaching function is carried on in a collective setting, the learning function is uniquely individualized. It is a fair description of our education philosophy that the total public schooling seeks to give each student the maximum development of his unique capacities and interests.

public education. In *Red Lion Broadcasting Company* v. *FCC*, 395 U.S. 367 (1969), the Court was presented with First Amendment questions in the area of broadcasting. The narrow issue before the Court was the validity of the FCC's "fairness doctrine," as applied to permit free reply by one who has been subjected to a personal attack on radio or television. In sustaining the FCC rule, the Supreme Court espoused an interpretation of the First Amendment which has close bearing on the public school equality question. As the Court stated it (395 U.S. at 390):

> ". . . the people as a whole retain their interest in free speech by radio and their collective right to have the medium function consistently with the ends and purposes of the First Amendment. It is the right of the viewers and listeners, not the right of the broadcasters, which is paramount. See *FCC* v. *Sanders Bros. Radio Station*, 309 U.S. 470, 475 (1940); *FCC* v. *Allentown Broadcasting Corp.*, 349 U.S. 358, 361-62 (1955); 2 Z. Chafee, Government and Mass Communications 546 (1947). It is the purpose of the First Amendment to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail, rather than to countenance monopolization of that market, whether it be by the Government itself or a private licensee."

The Court concluded, reminiscent of the "people, not trees" emphasis in *Reynolds*, that "It is the right of the public to receive suitable access to social, political, esthetic, moral and other ideas and experiences which is crucial here. That right may not constitutionally be abridged either by Congress or by the FCC" (*Id.*).

What is noteworthy in *Red Lion* is its view that due to the government's involvement in the licensing of broadcasters, equality of access to the medium in the presentation of a broad spectrum of ideas becomes the constitutional right of the public itself. If the First Amendment has that thrust in the broadcasting area, where government is merely the licensor, it would seem that equality and fairnese are no less compulsory where government is not merely licensing communication of ideas but is itself the communicator through its public school system. Just as viewers and listeners have a First Amendment right to equal treatment by the media, public school children have a First Amendment right to equality in educational offering.*

* In *Boddie* v. *Connecticut*, 401 U.S. 371 (1971), welfare recipients challenged the requirement that they pay about $60.00 court costs as a prerequisite to bringing an action for divorce. The Court ruled for the welfare women because:

> ". . . given the basic position of the marriage relationship in this society's hierarchy of values and the concomitant state monopolization of the means for legally dissolving this relationship, due process does prohibit a State from denying, solely because of inability to pay, access to its courts to individuals

When we turn to consider the purported justification for existing inequalities in public education based on the supposed values of local self-determination in education funding, *Reynolds* v. *Sims, supra,* is equally persuasive. In *Reynolds,* the state made a similar localism argument, based upon the supposed status of the state's political subdivisions, but it was rejected by the Court as a basis for allocating seats in the legislature by counties rather than voters. Thus, in *Reynolds,* the argument was made that Alabama's system of apportionment was "analogous to the allocation of two Senate seats, in the Federal Congress, to each of the 50 states, regardless of population" (377 U.S. at 571). The Court's response was as follows (*Id.* at 574, 575):

> "The system of representation in the two Houses of the Federal Congress is one ingrained in our Constitution, as part of the law of the land. It is one conceived out of compromise and concession indispensable to the establishment of our federal republic. Arising from unique historical circumstances, it is based on the consideration that in establishing our type of federalism a group of formerly independent States bound themselves under one national government. . . . The developing history and growth of our republic cannot cloud the fact that, at the time of the inception of the system of representation in the Federal Congress, a compromise between the larger and smaller States on this matter averted a deadlock in the Constitutional Convention which had threatened to abort the birth of our Nation. . . .
>
> "Political subdivisions of States—counties, cities, or whatever—never were and never have been considered as sovereign entities. Rather, they have been traditionally regarded as subordinate governmental instrumentalities created by the State to assist in the carrying out of state governmental functions. As stated by the Court in *Hunter* v. *City of Pittsburgh,* 207 U.S. 161, 178 . . . , these governmental units are 'created as convenient agencies for exercising such of the governmental powers of the state as may be entrusted to them,' and the 'number, nature, and duration of the powers conferred upon [them] *** and the territory over which they shall be exercised rests in the absolute discretion of the state.' The relationship of the States to the Federal Government could hardly be less analogous."

The status of subdivisions of the state which the Court in *Reynolds* found insufficient to justify different voting rights is equally insufficient to justify different education rights. In *Reynolds* the Court

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who seek judicial dissolution of their marriages" (401 U.S. at 374).

Just as the state monopolizes the means for legally dissolving a marriage relationship, so also for most people the state provides the only practical means for obtaining an education. Accordingly, the state cannot provide education for some (those with means) and provide a lesser kind of educational experience for others (*Mills* v. *Board of Education of D. C.,* 348 F. Supp. 866 (D.D.C. 1972); *cf. Hobson* v. *Hansen,* 269 F. Supp. 401 (D.D.C. 1967)).

emphasized that subdivisions of a state are not sovereign entities, and their boundaries cannot be made the predicate for apportioning state legislative power so as to deny equal votes to citizens throughout the state. So, too, school districts are merely subordinate bodies of the state having no independent sovereignty, and their boundaries cannot be made the basis for denying equal public education to students throughout the state. Accordingly, in this second respect as well, we deem the Supreme Court's ruling in *Reynolds* significant in the present context.

Moreover, all apart from the authority of the precedents, analysis of the alleged local interest here asserted shows that it does not constitute a "compelling interest" sufficient to justify public education funding inequalities among school districts. There is, of course, a legitimate interest of localism in public education when it comes to *how* money is to be spent for teaching. But the legitimate demand for local choices in allocating school revenues to particular courses, facilities, and teaching priorities, is quite a different interest from the alleged local choice to have or to forego adequate public education by agreeing or declining to provide adequate school funds. We may turn again to the voting analogy. Under the Supreme Court's apportionment requirement, the citizens in each voting district have an equal voice and vote in choosing legislators, but it is still their local choice which controls who is nominated and elected in the individual district. Thus, equality in the distribution of voting power throughout the state does not negate localism in the *exercise* of voting power. So, too, in education; while the Constitution guarantees equality in funding among the school districts in the state, local option in the *expenditure* of the locality's share of the state's public education funds remains intact. A "compelling interest" argument can thus be made only for permitting each school district to allocate and expend its fair and equalized share of the total school revenues available in the state. There is no "compelling interest" demonstrated for retention of a localized system of school funding which permits each locality to opt for a high- or low-funded school system, with the consequence that children in one district are given education inferior to those in another.

Under this analysis it becomes clear that local determination of public school funding levels—the supposed virtue of "power equalizing"—reflects no vital governmental interest. At best, it evokes an argument that it would be nice or "democratic" to let local voters determine how good their schools should be. While that is surely no "compelling" state interest sufficient to justify gross intrastate in-

equalities in education, it also is an illusory appeal to self-determination. *For the fact is that under the present system those who decide whether in the district there should be high or low funding of public education are not the same persons who are attending the public school system.* To begin with, few public school students are of voting age. Moreover, it is not even their parents who control the local choice with respect to the funding of public education.[8] Usually the controlling voting power in the local election or referendum on school taxes is held by citizens whose children do not even attend the public school system—elderly persons whose children are past school age, the parents with children in religious schools, the affluent families whose children attend private schools. Translated into realistic terms, for too many public school children the supposed virtue of local self-determination in public school funding is simply the vice of schools kept underfinanced by local voters who do not perceive a direct stake in the adequacy of the schools.

Finally, if all these points were not dispositive, when fully analyzed it also becomes clear that the localism plea is a direct negation of the underlying principle enshrined in the Bill of Rights and the Fourteenth Amendment's "equal protection" clause. The central thrust of those constitutional guarantees is *against* operation of majority rule so as to repress minority rights. They guarantee that majority will—self-determination in the purest sense—may *not* operate so as to deny equal treatment. In that respect it makes no difference whether the majority decision is exercised by the legislature, or by the voters as a whole through referendum or similar direct ballot decision.[9] Thus, it is clear that the local self-determination plea as justification of public education inequality is simply the oft-rejected contention that the majority can restrict minority rights. If the Constitution's "equal protection" clause makes public education a substantial interest and invokes the general egalitarian requirements of the Fourteenth Amendment, then the local voters' option to fund a superior or a substandard level of public education is not an answer to the demand for equality; it is a negation of the Constitution's equality norm itself.

We submit, therefore, that the Federal Constitution does clearly mandate intrastate public education equality, not just "power equalization," and makes equal treatment a right of each public school student in the state irrespective of the wealth of the district in which he resides or the commitment of voters in his district to education. Under this view, the Constitution does not merely preclude the wealth discrimination factor of our present school funding system, illuminated

by *Serrano*. It goes well beyond that negative stricture and requires a school funding system designed to afford *equivalent* public education to school children throughout the state. The crucial question that then arises is what constitutes the equivalence or equality in public education which the Constitution compels the state to afford its public school students. We turn now to that final question.

C. Education Equality Defined As Equal Offering

Earlier in this discussion we have identified four alternative constitutional standards of education equality: educational need, taxing equality, expenditure equality, and equal educational offering. As we have emphasized in the previous section, neither taxing equality nor dollar parity gives any assurance that *education* will be equal, and indeed it seems clear that under either of these proposals major disparities would remain in the character and quality of schooling among the state's school districts. The real choice, therefore, is between an equal school offering standard, otherwise known as "input" equalization, and a standard sometimes characterized as "output" equalization.

A reasonable argument could be made for recognition of the second of these alternative standards. Since students have vastly different potentials and learning capacities, there is cogency to the view that a fair public education system should take account of those differences. It might, for instance, provide compensatory or additional education both to those with special abilities and those with special disabilities—the first, because students with special skills should have the opportunity to develop them; the second, because students with disabilities need compensatory help to overcome them.

Notwithstanding the basic logic of an "output" equalization standard, we deem it presently unready for constitutional adoption.[10] Achievement equalization is in a sense the most "radical" of all the suggested equalization standards, and it seems unlikely that the courts will first espouse the most far-reaching remedy. That is particularly so when we consider the undeveloped state of our knowledge in the achievement equalization area. Effective offering of compensatory education to the slow learners is still a subject of great academic controversy. Even more controversial is the relationship between dollar expenditures and student achievement improvement. Until the profession of teaching develops reliable results and statistical measures concerning effective compensatory education for disadvantaged children, a constitutional funding standard mandating student achievement equalization must remain only a concept for future development.

Accordingly, we urge acceptance of the constitutional standard which requires distribution of all funds for public education within the state so as to provide for *equal educational offering* in every school and district within the state.* To make an equal school offering standard workable, the cost differential among school districts in their furnishing of equivalent educational services must be incorporated into the state's school funding formula. If devising school funding distribution formulas which incorporate statistics on education service costs seems novel, that does not reflect the absence of an adequate science of measurement but only the absence to date of any serious equalization effort in public education. As we have demonstrated in Chapter II, the major cost factors are identifiable and quantifiable. Modest additional research can provide in any state the interdistrict comparisons of personnel pay, land and building costs, maintenance, security, and other items with which an equal educational offering standard can be implemented.

Of course, there are areas where comparisons become difficult because services actually provided in one school district are not provided in another. Not all school districts provide transportation for students or comparable amounts of transportation; programs and special facilities offered in one district may not be offered in another. For such differences, special adjustments must be made. But it bears emphasis that while some few items of school expenditure may not be subject to precise comparison among school districts, the most significant ones are capable of reliable measurement and incorporation into the overall school funding formula.

Finally, there arises the inevitable question concerning the teacher pay factor, which may constitute 80 percent or more of the total school budget, and which varies widely within the state, usually to the detriment of the cities and suburbs where teacher pay tends to be the highest. Objection will doubtless be voiced to the incorporation of existing teacher pay differentials into the school funding formula on the ground that taxpayers from other sections of the state would be paying for premium teacher pay rates in cities and suburbs. Perhaps it is a sufficient answer to such an objection that all our major govern-

* Of course, in espousing that *constitutional* standard we do not oppose in any way efforts to provide compensatory school aid to underprivileged students. The Fourteenth Amendment has long been construed only to require equal treatment of those *similarly situated* and it has often been observed that nothing is more discriminatory than equal treatment of unequals. There is, accordingly, no constitutional obstruction to compensatory public education for needy children, because their special need provides a legitimate basis for giving them special help.

mental programs already are geared to actual costs, which vary widely state-by-state and locality-by-locality. There is a vast imbalance between states and cities which bear the heaviest burden of federal and state taxes and those states and cities which are heaviest benefit recipients, but that imbalance has not heretofore been regarded as unjust. But an even more direct answer to an objection against the teacher pay variable may be made on the basis of federal and state public works law. The principal point of the 1932 Davis-Bacon Act and the 45 state "Davis-Bacon" acts is to assure that wage rates paid on government construction projects should be the wage rates prevailing in each particular locality. Under the state "Davis-Bacon" acts, it is clearly provided that on each construction project there must be paid the given skill or job classification scale prevailing in the locality.[11]

It is the central point of these statutes that they recognize differences between localities in existing rates of pay for the same skill or craft, and determine it to be in the public interest that public bodies pay those differentials. We view this as the strongest refutation of any contention that teacher pay differentials among localities of a state must be disregarded by the state system of funding for public education. To the extent that state law *now* reflects any value judgments on such a question, far from opposing governmental recognition of prevailing wage rate differentials among communities it actually compels governmental payment of those differentials.

In sum, we conclude that the Constitution requires a standard of equal treatment in public education; that the preferable standard is one which seeks to equalize educational offering for all districts and schools of the state; and that an adequate science exists to measure and incorporate cost differences in the overall school funding formula so as to accomplish the objective of statewide offering equalization. We also are bold enough to predict that what logic and common sense suggest to be the appropriate egalitarian funding principle in public education will find increasing favor as equalization gains the sympathetic support of state courts and legislatures.

References

1. Guthrie, Kleindorfer, Levin, and Stout, *Schools and Inequality*. Cambridge: MIT Press, 1971.
2. "Even if the Fourteenth Amendment required that expenditures be 'made only on the basis of pupils' educational needs, this controversy would be nonjusticiable. While the complaint does not present a 'political question' in the traditional sense of the term, there are no 'discoverable and manageable standards' by which a court can determine when the Constitution is satisfied and when it is violated." (*McInnis* v. *Shapiro*, 329 F. Supp. 327 (N. D. Ill. 1968)).
3. *McLaughlin* v. *Florida*, 379 U.S. 184 (1964); *Harper* v. *Virginia State Board of Elections*, 383 U.S. 663 (1966); *Levy* v. *Louisiana*, 391 U.S. 68 (1968); *Shapiro* v. *Thompson*, 394 U.S. 618 (1969); *Kramer* v. *Union Free School District*, 395 U.S. 621 (1969); *Cipriano* v. *City of Houma*, 395 U.S. 701 (1969); J. Tussman and J. ten Broek, "The Equal Protection of the Laws," 37 *California Law Review* 341, 372-73 (1949); but *cf. Labine* v. *Vincent*, 401 U.S. 532 (1971); *Gordon* v. *Lance*, 403 U.S. 1 (1971).
4. *San Francisco Unified School District* v. *Johnson*, 3 Cal. 3d 937, 950, 479 P. 2d 669, 676 (1971); *Jackson* v. *Pasadena City School District*, 59 Cal. 2d 876, 880, 382 P. 2d 878, 881 (1963); *Manjares* v. *Newton*, 64 Cal. 2d 365, 375-76, 411 P. 2d 901, 908 (1966); *Piper* v. *Big Pine School District*, 193 Cal. 664, 673, 226 P. 926, 930 (1924); (See *Serrano*, 487 P. 2d 1241, 1257).
5. *United States* v. *Carolene Products*, 304 U.S. 144, 152 (1938).
6. *Gitlow* v. *New York*, 268 U.S. 652 (1925); *Grosjean* v. *American Press Co.*, 297 U.S. 233 (1936); *Bates* v. *Little Rock*, 361 U.S. 516 (1960); *NAACP* v. *Button*, 371 U.S. 415 (1963); *Dandridge* v. *Williams*, 397 U.S. 741 (1970).
7. In *Bradley* v. *The School Board of the City of Richmond, Virginia*, 462 F. 2d 1058 (4th Cir.), cert. granted, __ U.S. __ (1972), a majority of the Court held that it was error for a District Court "to order the consolidation of three separate political subdivisions (counties) of the Commonwealth of Virginia," but only because the majority of the Court was "unable to discern any constitutional violation in the establishment and maintenance of these three school districts, nor any unconstitutional consequence of such maintenance" (Slip Opinion, p. 29).
8. *Kramer* v. *Union Free School District*, 395 U.S. 621 (1969).

9. *Reitman* v. *Mulkey*, 387 U.S. 369 (1967); *Lucas* v. *Forty-Fourth General Assembly of Colorado*, 377 U.S. 713, 736 (1964); *West Virginia Board of Education* v. *Barnette*, 319 U.S. 624, 638 (1943); *Hall* v. *St. Helena Parish School Bd.*, 197 F. Supp. 649, 659 (E. D. La. 1961), aff'd, 368 U.S. 515.
10. L. G. Simon, "The School Finance Decisions: Collective Bargaining and Future Finance Systems," 82 *Yale Law Journal* 409, 441-443 (1973).
11. With the exception of Iowa, Georgia, Mississippi, North Carolina, North Dakota, and South Dakota, all states and the District of Columbia have enacted "Davis-Bacon" statutes with provisions similar to the following:

    "PUBLIC WORKS

    "*Prevailing Wages.*—Not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter (public works), shall be paid to all workmen employed on public works exclusive of maintenance work." (California, CCH, Labor Law Reports ¶44,001.)

    "Public Works Projects; Prevailing Wages.

    "Contracts for the construction, alteration or repair of any public works project by the State, or any of its agents, or by any political subdivision of the State or any of its agents, shall contain a provision providing that wages paid on an hourly basis to any mechanic, laborer or workman employed upon the work contracted to be done . . . shall be at a rate customary or prevailing for the same work in the same trade or occupation in the town in which the public works project is being constructed." (Connecticut, CCH, Labor Law Reports ¶44,001.)

Conclusion

In this study we have proposed a rationale for a cost-based formula of state public school funding which seeks to provide equal educational offering in every school district in the state, supplemented by a continuing but enlarged federal program of funding for the special educational needs of deprived children. In concluding our examination, it is appropriate to place our proposal in the context of the larger range of school equalization proposals now before courts and legislatures. Educational offering equalization may be viewed as one of six alternative options now under consideration in the area of public education funding:

1. Maintaining the present status quo of school taxation and funding inequalities.
2. Reducing somewhat the school expenditure inequalities by improving the state foundation programs of equalization aid.
3. Adopting the "power equalizing" formula to eliminate school tax inequities.
4. Adopting a statewide equal-dollars-per-child expenditure formula.
5. Our proposed formula for a funding system promoting equal educational offering.
6. Adopting a funding system geared to pupil achievement equalization.

Most of the attention in legislatures is now on the second of these alternatives—improvement of the state's foundation aid program. In the courts the present focus of litigation is on the "power equalization"

approach, in which cities have no real stake. It is our hope that courts will establish in the near future the constitutional necessity for a system of school funding going beyond "power equalization" and seeking to equalize educational offering itself, and that in any event the legislatures will begin to move in that direction. The *Rodriguez* decision is no impediment to such a legislative course. If it is fair and sensible for the state to seek equalization of educational offering throughout its school districts, as we believe it clearly is, then legislatures are in no way inhibited from moving in that direction even though the Federal Constitution may not *compel* them to do so.

Indeed, it is a reasonable construction of the majority opinion in *Rodriguez* that the Supreme Court expects the legislative reform which it there advocates. If equal treatment in public education is not soon achieved by the states, it is probable that ultimately the Federal Constitution will after all be construed to secure the necessary reform. Certainly we cannot continue to relegate our poorest populations to second-class public education without renouncing the moving purpose and promise of public education itself.

Selected Bibliography

Inequities in public school financing have assumed the proportions of a major subject area of specialization, reflected in an extensive and growing literature of articles, books, and publications of various other types. This booklet makes no pretense of attempting to provide a basic background sufficient to know or understand the complex issues involved. For the reader interested in more completely informing himself about the legal, legislative, educational, economic, and the many other aspects of the subject, a selected bibliography is offered as a starting point. No claim of comprehensiveness, nor any positive or negative evaluation by inclusion or exclusion, is implied.

Articles

Allen, James E., Jr. "The State Educational Priorities and Local Financing." *Integrated Education*, September-October 1968.

Cohen, David K. "The Economics of Inequality." *Saturday Review*, April 19, 1969.

_____. "School Resources and Racial Equality." *Education and Urban Society*, February 1969.

Coleman, James S. "Towards Open Schools." *The Public Interest*, Fall 1967.

"Community and the Schools." *Harvard Educational Review*, Reprint Series No. 3, 1969.

Conant, James B. "Financing the Public Schools." *School and Society*, Vol. 100, No. 2341, April 1972.

Coons, John E.; Clune, William H. and Sugarman, Stephen D. "Educational Opportunity: A Workable Constitutional Test for State Financial Structures." 57 *California Law Review* 305 (1969).

Dye, Thomas R. "Governmental Structure, Urban Environment, and Educational Policy." *Midwest Journal of Political Science,* 11 (August 1960).

"Equal Educational Opportunity." *Harvard Educational Review,* Vol. 38, No. 1 (Winter 1968).

Greenbaum, William N. "*Serrano* v. *Priest*: Implications for Educational Equality." *Harvard Educational Review,* Vol. 41, No. 4 (1971).

Hirsch, Werner Z. "Determinants of Public Education Expenditures." *National Tax Journal,* 13 (March 1960).

Horowitz, Harold W. "Unseparate But Unequal: The Emerging Fourteenth Amendment Issue in Public School Education." 13 *UCLA Law Review* (1966).

_____ and Neitring, Diana L. "Equal Protection Aspects of Inequalities in Public Education and Public Assistance Programs from Place to Place Within a State." 15 *UCLA Law Review* (1968).

Jaffe, Jacob M. "The States' Stake in the Urban Fiscal Crisis." *State Government,* Winter 1969.

Kirp, David. "The Constitutional Dimension of Equal Educational Opportunity." 38 *Harvard Educational Review* (1968).

Kurland, Philip B. "Equal Educational Opportunity: The Limits of Constitutional Jurisprudence Undefined." 35 *University of Chicago Law Review* (1968).

Levi, Edward H. "The University, the Professions, and the Law." 56 *California Law Review* (1968).

Levin, Betsy; Cohen, Michael A.; Muller, Thomas and Scanlon, William J. *Paying for Public Schools: Issues of School Finance in California.* Washington, D. C.: Urban Institute, April 1972.

Levin, Henry M. and Bowles, Samuel. "The Determinants of Scholastic Achievement: An Appraisal of Some Recent Evidence." *The Journal of Human Resources,* Winter 1968.

McClure, Phyllis. "New Strategies for School Equality." *Civil Rights Digest,* Fall 1968.

Michelman, Frank. "Foreword: On Protecting the Poor Through the First Amendment." 83 *Harvard Law Review* (1969).

Morgan, James and Siragelдin, Ismail. "A Note on the Quality Dimension in Education." *Journal of Political Economy*, September-October 1968.

Renshaw, Edward F. "A Note on the Expenditure Effect of State Aid to Education." *Journal of Political Economy*, April 1960.

Riew, John. "Economies of Scale in High School Operation." *Review of Economics and Statistics*, August 1966.

_____. "State Aids for Public Schools and Metropolitan Finance." *Land Economics*, Vol. 40, No. 3 (August 1970).

Shanks, Hershel. "Equal Education and the Law." *The American Scholar*, Vol. 39, No. 2 (Autumn 1970).

Silard, John and White, Sharon. "Intrastate Inequalities in Public Education: The Case for Judicial Relief under the Equal Protection Clause." 1970 *Wisconsin Law Review*, No. 1.

Smith, Marshall S. "Equality of Educational Opportunity. Comments on Bowles and Levin." *The Journal of Human Resources*, Winter 1968.

Books

Becker, Gary S. *Human Capital: A Theoretical and Empirical Analysis with Special Reference to Education*. New York: National Bureau of Economic Research, 1964.

Benson, Charles S. *The Cheerful Prospect: A Statement on the Future of Public Education*. Boston: Houghton Mifflin Co., 1965.

Coleman, James S., *et al. Equality of Educational Opportunity*. Washington, D. C.: U.S. Gov't. Printing Office, 1966.

Conant, James B. *Slums and Suburbs*. New York: McGraw-Hill Book Co., 1961.

Coons, John E.; Clune, William H. and Sugarman, Stephen D. *Private Wealth and Public Education*. Cambridge: Harvard University Press, 1970.

Daly, Charles U., ed. *The Quality of Inequality: Urban and Suburban Public Schools*. Chicago: University of Chicago Center for Policy Study, 1968.

Davis, Otto A. "Empirical Evidence of Political Influences Upon the Expenditure Policies of Public Schools," in *The Public Economy of Urban Communities*. Baltimore: Johns Hopkins Press, 1965.

Edwards, Newton. *The Courts and the Public Schools*. Chicago: University of Chicago Press, 1955.

GARDNER, JOHN W. *Excellence: Can We Be Equal and Excellent Too?* New York: Harper and Row, 1961.

HARRISON, FORREST W. and MCLOONE, EUGENE P. *Profiles in School Support: A Decennial Overview*. Washington, D. C.: U.S. Gov't. Printing Office, 1965.

JAMES, H. THOMAS; THOMAS, J. ALAN and DYCK, HAROLD J. *Wealth, Expenditures and Decision Making for Education*. Stanford: Stanford University Press, 1963.

KEPPEL, FRANCIS. *The Necessary Revolution in American Education*. New York: Harper and Row, 1966.

LEVIN, BETSY; MULLER, THOMAS and SANDOVAL, CORAZON. *The High Cost of Education in Cities—An Analysis of the Purchasing Power of the Educational Dollar*. Washington, D. C.: Urban Institute, 1973.

LEVIN, HENRY M., ed. *Community Control of Schools*. Washington, D. C.: The Brookings Institution, 1970.

MINER, JERRY. *Social and Economic Factors in Spending for Public Education*. Syracuse: Syracuse University Press, 1963.

MOSTELLER, FREDERICK and MOYNIHAN, DANIEL P., eds. *On Equality of Educational Opportunity*. New York: Random House, 1972.

SACKS, SEYMOUR. *Educational Finance in Large Cities*. Syracuse: Syracuse University Press, 1970.

SEXTON, PATRICIA CAYO. *Education and Income*. New York: Viking Press, 1961.

THOMAS, J. ALAN. "School Finance and Educational Opportunity in Michigan." *Michigan School Finance Study*. Lansing: Michigan Department of Education, 1968.

WISE, ARTHUR E. *Rich Schools, Poor Schools: The Promise of Equal Educational Opportunity*. Chicago: University of Chicago Press, 1968.

Other Sources

Advisory Commission on Intergovernmental Relations. *Metropolitan Fiscal Disparities*, Vol. 2. Washington, D. C.: U.S. Gov't. Printing Office, 1967.

_____. "Who Should Pay for Public Schools?" *Report of the Conference on State Financing of Public Schools*. October 1971.

National Educational Finance Project, 5 vols. Gainesville: University of Florida, 1971.

The New York State Commission on the Quality, Cost and Financing of Elementary and Secondary Education (Fleischmann Commission). Albany, New York, 1972.

Schools, People and Money—The Need for Educational Reform. Report of the President's Commission on School Finance (McElroy Commission). Washington, D. C.: U.S. Gov't. Printing Office, 1972.

The Urban Education Task Force Report. Wilson C. Riles, Chairman. New York: Frederick A. Praeger, 1970.

U.S. Commission on Civil Rights. *Racial Isolation in the Public Schools.* Washington, D. C.: U.S. Gov't. Printing Office, 1967.

_____. *Inequality in School Financing: The Role of the Law.* Washington, D. C.: U.S. Gov't. Printing Office, 1972.

U.S. Congress, Senate Select Committee on Equal Educational Opportunity. *The Financial Aspects of Equality of Educational Opportunity,* by Joel S. Berke and James A. Kelly, and *Inequities in School Finance,* by Joel S. Berke and John J. Callahan. 92nd Congress, 2nd Session, Washington, D. C.: U.S. Gov't. Printing Office, 1972.